

IN THE SUPREME COURT OF FLORIDA

FILED

SID J. WHITE

MAY 22 1995

PATRICE RATCLIFFE,

Petitioner,

vs.

Case No. 85,203

CLERK, SUPREME COURT
By *[Signature]*
Chief Deputy Clerk

STATE OF FLORIDA,

Respondent.

DISCRETIONARY REVIEW OF DECISION OF THE
DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

INITIAL BRIEF OF PETITIONER ON THE MERITS

JAMES MARION MOORMAN
PUBLIC DEFENDER
TENTH JUDICIAL CIRCUIT

ALLYN GIAMBALVO
ASSISTANT PUBLIC DEFENDER
FLORIDA BAR NUMBER 239399

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ATTORNEYS FOR PETITIONER

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ARGUMENT

ISSUE

WHETHER FLORIDA'S ANTI-STALKING
STATUTE IS UNCONSTITUTIONALLY VAGUE
AND OVERBROAD?

Between the time appellant filed her Notice To Invoke Discretionary Review, Brief on Jurisdiction, and the filing of this brief, this court issued its opinion in Bouters v. State, Case No. 83,558 (Fla. April 27, 1995). In this opinion the court upheld the constitutionality of 748.048, Florida's Anti-Stalking Statute on both vagueness and overbreadth challenges.

Although acknowledging this court's current position on the question, the Petitioner would ask this court to reconsider its holding and accept the arguments against finding the statute to be constitutional as advanced by the Petitioner in Bouters, id.

CONCLUSION

Petitioner asks this court to reject its recent holding in Bouters v. State and accept the arguments advanced by the petitioner in that case and find 748.048 Florida Statutes unconstitutional.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy has been mailed to Michael J. Neimand, Office of the Attorney General, 401 N.W. 2nd Avenue, Suite N921, Post Office Box 0113241, Miami, Fla. 33101, and Patrice Ratcliffe on this 16 day of May, 1995.

Respectfully submitted,

Allyn Giambalvo

JAMES MARION MOORMAN
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APPENDIX

1. Opinion of the Second District Court of Appeal rendered on February 1, 1995.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

PATRICE RATCLIFFE,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

CASE NO. 93-04054

Opinion filed February 1, 1995.

Appeal from the Circuit Court
for Pinellas County, Claire K.
Luten, Judge.

James Marion Moorman, Public Defender,
Bartow, and Allyn Giambalvo, Assistant
Public Defender, Clearwater, for
Appellant.

Robert A. Butterworth, Attorney
General, Tallahassee, and Michael J.
Neimand, Assistant Attorney General,
Parker D. Thomson and Carol A. Licko,
Assistant Attorney Generals, Miami,
for Appellee.

PER CURIAM.

Affirmed. See State v. Tremmel, 644 So. 2d 102 (Fla.
2d DCA 1994).

PATTERSON, A.C.J., and BLUE and FULMER, JJ., Concur.