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FILED
SID J. WHITE
AUG 25 1995
CLERK, SUPREME COURT
By ____________
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

LINDA McGHEE,

Petitioner,

v.

Case No. 85,636

DEPARTMENT OF CORRECTIONS,

Respondent.

______________________________/

ON DISCRETIONARY REVIEW FROM THE
DISTRICT COURT OF APPEAL, FIRST DISTRICT OF FLORIDA

ANSWER BRIEF OF RESPONDENT

Respectfully submitted,

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STATEMENT OF THE CASE AND FACTS

Respondent DOC accepts Petitioner's Statement of the Case and Facts with the following additions:

Kenneth Summers was an Ocean Springs Police Department patrol sergeant on May 26, 1990. (T 295) Summers learned by radio dispatch that a problem had occurred at the national park. (T 295) After receiving the dispatch, Summers attempted to radio the information to the national park ranger. (T 310,317) Summers did not get a response. (T 310) Summers testified that the national park rangers had access to the local police radio frequency. (T 310) The rangers did not routinely follow local police procedures for checking in by radio for traffic stops. (T 310)

Don Joseph Bourgeois, Ocean Springs Police Department detective, received a call on May 26, 1990, to respond to a shooting in the Gulf Islands National Seashore Park. (T 322) Bourgeois acknowledged that the transcript of the calls made after the 911 call came in showed that the police dispatcher had attempted to call the national park, but that no response was obtained. (T 373)

DOC inspector James G. Keen testified that he investigated the escape. (T 537, 557) Immediately after the escape, DOC search and recapture efforts began. (T 538) DOC's notification procedure involved immediate notification to local law enforcement, to the prison and placing a BOLO on an intercity

network to anyone with radio frequency to receive the broadcast. (T 540) DOC's radio frequency permitted transmissions to every adjoining county in the jurisdiction. (T 541) Keen reviewed DOC files to learn about the escapees from other inmates, to learn who had visited the inmates, where they were from, where they might go, and what county they were sent out of. (T 543) The most significant search factor was a relationship that would attract an inmate to the area. (T 544) DOC called Bruner and Woolard's next of kin to advise them of the escape. (T 544) Holmes Correctional Institution advised 12 law enforcement agencies of the escape. (T 546) Surveillance was conducted in Jacksonville, where Woolard's girlfriend lived. (T 547) Contact was made with the Escambia County Sheriff's Department because Bruner had been convicted in that county. (T 548) Keen requested Santa Rosa County officials to contact an associate of Bruner's. (T 549) Contact was also made with the Florida Highway Patrol and Alabama law enforcement agencies. (T 550) An Alabama law enforcement agency advised Keen of a kidnapping on May 25, and that they had received an NCIC report regarding the escape. (T 551) Bay County officials called Keen to report that they thought they had Bruner and Woolard in custody. (T 552) At 11 a.m. on May 25, the Holmes Correctional Institution search and recapture units were called back in. (T 553-54) By 5 p.m. on May 26, 1990, Keen believed that every base had been covered and every lead had been followed. (T 553)

ISSUE PRESENTED FOR REVIEW

WHETHER THE DEPARTMENT OF CORRECTIONS MAY BE HELD LIABLE AS A RESULT OF THE CRIMINAL ACTS OF AN ESCAPED PRISONER?

SUMMARY OF ARGUMENT

The question before this court previously was addressed and answered in Reddish v. Smith, with subsequent clarification in Department of Health and Rehabilitative Services v. Whaley. DOC may not be held liable for the criminal acts of escaped prisoners because no common-law duty of care exists when the state exercises its police power to enforce the law or protect the public, Trianon Park Condominium Assoc. v. City of Hialeah, and the government's duty to protect citizens is a general duty owed to the public as a whole, and not to any individual citizen. Reddish; Whaley; Everton v. Willard. The Restatement (Second) of Torts §315(a) and §319 common-law principles pertaining to duties which arise when one assumes custody of individuals with dangerous propensities do not apply to DOC's legislatively-mandated conduct of housing and supervising prisoners in state-operated institutions. While a special relationship between a government entity and a personal injury victim may give rise to a duty owed by the entity to that victim, no corollary duty of care owed to any individual member of the public can arise by virtue of DOC's custodial relationship with state prison inmates because the agency's housing and supervision of prisoners is conduct which it is required by law to perform pursuant to the state's police powers. DOC is not in the business of supervising prisoners for profit or any other type of benefit to itself, and Nova University v. Wagner therefore does not control the issue before the court.

This court should answer the certified question in the negative on a finding that DOC does not owe a duty of care to any individual member of the general public with respect to its conduct of supervising prisoners, and therefore may not be held liable for the criminal acts of escaped prisoners.

ARGUMENT

CERTIFIED QUESTION

WHETHER THE DEPARTMENT OF CORRECTIONS MAY BE HELD LIABLE AS A RESULT OF THE CRIMINAL ACTS OF AN ESCAPED PRISONER?

The district court in this case, relying upon **Department of Corrections v. Vann**, 650 So.2d 658 (Fla. 1st DCA 1995), held that DOC cannot be held liable for the criminal acts of an escaped prisoner because it has no specific duty to protect individual members of the general public. The decision is correct, and this court should answer the certified question in the negative.[1]

In **Vann**, the court referenced the principles for determining government liability set forth in **Trianon Park Condominium Assoc. v. City of Hialeah**, 468 So.2d 912 (Fla. 1985). The principles relevant to the liability determination in this case are as follows:

> For certain basic judgmental or discretionary governmental functions, there has never been an applicable duty of care. **Commercial Carrier [v. Indian River County]** 317 So.2d 1010 (Fla. 1979). Further, legislative enactments for the benefit of the general public do not automatically create an independent duty to either individual citizens or a specific class of citizens. **Restatement (Second) of Torts** §288 comment b (1964)
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> ***

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[1] **Vann** is presently pending before this court on the same certified question. Case No. 85,415. If this court answers the certified question in this case in the affirmative, DOC, like Petitioner McGhee, requests leave to file a supplemental brief which addresses the additional issues presented to the district court for review.

> Third, there is not now, nor has there ever been, any common law duty for either a private person or a governmental entity to enforce the law for the benefit of an individual or a specific group of individuals. In addition, there is no common law duty to prevent the misconduct of third persons. See Restatement (Second) of Torts §315.

Vann, 650 So.2d at 660, quoting Trianon, 468 So.2d at 917-918.

The Vann court also recognized that "[a] governmental duty to protect its citizens is a general duty to the public as a whole, and where there is only a general duty to protect the public, there is no duty of care to an individual citizen which may result in liability." Id., 650 So.2d at 660, quoting Everton v. Willard, 468 So.2d 936,938 (Fla. 1985).

In Trianon, the court categorized governmental conduct according to the nature of the function and the duties of care applicable to each function. The court characterized Category II acts, those involving the state's exercise of its police power to enforce the law and protect the public, as inherently governmental conduct for which no common-law duty of care has ever existed, and for which the general duty to protect the public does not extend to any particular citizen. Id., 468 So.2d at 920, 921. The court noted that this conduct is absolutely immune from tort liability except in narrow circumstances, as when police negligently operate a vehicle. See e.g. City of Pinellas Park v. Brown, 604 So.2d 1222 (Fla. 1992).

The Vann court declined to categorize DOC's conduct of supervising prisoners, under the Trianon distinctions, on a conclusion that the duty issue was dispositive of the agency's

liability. However, it is indisputable that DOC's legislatively-mandated obligation to house and supervise convicted criminals during the course of their prison terms, See Chapter 944, Florida Statutes, entails exercise of the state's police power. Under **Trianon**, no common-law duty of care has ever existed for this type of conduct, and the general duty to protect the public owed by DOC in its exercise of the state's police powers is a general duty which is owed solely to the public at large.

Judge Ervin's dissenting opinion in this case asks why Florida courts readily have applied the common-law special relationship principle set forth in the **Restatement (Second) of Torts** §315(b) to find a duty of care owed in those cases in which the state had custody of a victim, **See e.g. Department of Health and Rehabilitative Services v. Whaley**, 574 So.2d 100 (Fla. 1991), **Kaisner v. Kolb**, 543 So.2d 732 (Fla. 1989) and **Department of Health and Rehabilitative Services v. Yamuni**, 529 So.2d 258 (Fla. 1988), but have declined to apply the corollary special relationship principle of §315(a) in cases in which the state had custody of an individual who caused injury to another. Section 315(a) states that a duty to control the conduct of a third person may arise if a "special relationship exists between the actor and the third person which imposes a duty upon the actor to control the third person's conduct."

Judge Ervin argued, on the basis of §315(a), as well as §319, pertaining to the duty owed by one who takes charge of a person having dangerous propensities, that DOC has an actionable duty to prevent inmates in its custody from causing bodily harm

to others. He further argued that the §315(a) and §319 common-law duty principles that courts have applied to find liability in cases in which private institutions assumed custody of dangerous individuals logically should be applied to DOC with respect to escaped inmates. Judge Ervin opined that the cases upon which Vann relied, Parker v. Murphy, 510 So.2d 990 (Fla. 1st DCA 1987), Bradford v. Metropolitan Dade County, 522 So.2d 96 (Fla. 3d DCA 1988) and George v. Hitek Community Control Corp., 639 So.2d 661 (Fla. 4th DCA 1994), were wrongly decided because they did not apply the common-law special relationship duty principles, and that Reddish v. Smith, 468 So.2d 929 (Fla. 1985), decided on sovereign immunity grounds, does not provide support for the proposition that DOC has no specific duty to protect individual members of the public from escaped inmates.

This court in Reddish squarely addressed and answered the question posed by the district court in this case, and Reddish should be deemed controlling precedent. While the court initially held the plaintiff's claims for negligent classification and assignment of the escaped prisoner were barred by sovereign immunity under the Commercial Carrier Corp. v. Indian River County discretionary-operational analysis, the court proceeded to analyze whether, even if operational-level negligence had been alleged, the claims would have been barred. The court stated as follows:

> Moreover, even if it could be said that the decisions complained of in this case were on the operational level, we would hold that there can be no liability imposed on the Department of Corrections. The waiver of sovereign immunity statute makes clear that

> it is just that: a waiver of the absolute immunity previously barring the imposition of any liability upon the state. As we hold in the decision made today in **Trianon Park Condominium Association v. City of Hialeah**, 468 So.2d 912 (Fla. 1985), the waiver statute created no new causes of action not previously recognized by common-law principles of tort responsibility.
>
> The statute waiving sovereign immunity provided in pertinent part as follows:
>
> Actions at law against the state or any of its agencies or subdivisions to recover damages in tort for money damages against the state or its agencies or subdivisions for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of his official employment **under circumstances in which the state or such agency or subdivision, if a private person, would be liable to the claimant in accordance with the general laws of this state**, may be prosecuted subject to the limitations specified in this act.
>
> 768.28(1), Fla. Stat. (1977) (emphasis supplied) The emphasized language makes clear that recovery is to be allowed only to the extent that such is available against a private person for the same kind of conduct as that committed by a state employee and charged as being tortious. Thus, where a Department of Corrections driver negligently operates his van while transporting prisoners thereby causing a collision resulting in injuries to another, a body of tort law exists by which liability can be established based on the negligent conduct of the driver. This kind of activity is covered by the waiver of sovereign immunity. But the decision to transfer a prisoner from one corrections facility to another is an inherently governmental function not arising out of an activity normally engaged in by private persons. Therefore the statutory waiver of sovereign immunity does not apply.

Reddish, 468 So.2d 932.

In **Whaley**, the court implicitly referenced the above language in clarifying that "**Reddish** is further distinguished because the department of corrections has no specific duty to protect individual members of the public from escaped inmates ..." **Id.**, 574 So.2d at 102-103 n.1. DOC owes no duty to particular members of the general public because its function in managing the state's prison population is an inherently governmental function for which no common-law duty of care has ever existed. **See State, Office of State Attorney v. Powell**, 586 So.2d 1180 (Fla. 2d DCA 1991), noting that state attorneys are law enforcement officers and a law enforcement officer's duty to protect citizens is a general duty owed to the public as a whole. The illustrations to Restatement §319, referring solely to the duty of care owed by **private** hospitals or sanitariums, support the conclusion that the duty discussed in that section does not apply to public institutions which are required by law to take custody of dangerous individuals for the benefit and protection of the society at large.

Section 768.28(5), Florida Statutes (1989) provides that the state and its agencies ... shall be liable for tort claims in the same manner and to the same extent as a private individual "**under like circumstances**." The state's exercise of its police power in housing and supervising prison inmates, for the purpose of protecting the public and enforcing the law, is distinguishable from the conduct of private entities which either gratuitously or for a fee assume the care and custody of individuals. DOC's conduct is not "like" the conduct of a private entity. The court

in **Nova University v. Wagner**, 491 So. 2d 1116 (Fla. 1986), expressly noted that the university took children into its educational program "for a fee," and held that "a facility **in the business** of taking charge of persons likely to harm others has an ordinary duty to exercise reasonable care in its operation to avoid foreseeable attacks by its charges on third parties." **Id.**, 491 So.2d at 1118. **See also Garrison Retirement Home Corp. v. Hancock**, 484 So.2d 1257 (Fla. 4th DCA 1985) (private adult congregate living facility cared for elderly individuals for a fee and was held to owe a duty of care to the victim of one of its residents).

The **Garrison** court explicitly referenced **Restatement (Second) of Torts** §324A in finding that the retirement home owed a duty of care to the victim. Section 324A states as follows:

> One who undertakes, **gratuitously or for consideration**, to render services to another which he should recognize as necessary for the protection of a third person or his things, is subject to liability to the third person for physical harm resulting from his failure to exercise reasonable care to protect his undertaking....(e.s.)

To state the obvious, DOC is **not** "in the business" of caring for prisoners. Unlike a private business which can choose to assume or not assume responsibility for particular individuals, DOC cannot refuse to accept custody of inmates who might present an unacceptable risk to the agency. Florida law requires DOC to house and manage prisoners in the state's institutions. DOC receives neither remuneration nor any other benefit for performing these duties. As expressly stated in §324 and as implicitly recognized in **Nova University v. Wagner**, the common-

law has distinguished between the duty owed by entities which either volunteer to assume custody of others, or profit from assuming such responsibility, and those which do not.

Because the state's conduct in supervising prisoners pursuant to law is distinguishable from the conduct of private entities which assume the care and supervision of individuals either gratuitously or for a fee, the common-law duties of care discussed in Restatement §315(a) and §319 do not apply.

For the above reasons, the conclusion of this court in Reddish, and the district courts' conclusions in Parker v. Murphy, Bradford v. Metropolitan Dade County, and George v. Hitek Community Control Corp., that no duty of care is owed to protect indivdual members of the general public from escaped prisoners, are correct. Petitioner argued that the decision in George v. Hitek improperly blurred the distinction between the sovereign immunity and legal duty analyses. To the contrary, the George court accurately analyzed the question of governmental duty by first categorizing the negligent acts at issue according to the Trianon distinctions, and then proceeding to deduce the absence of a common-law duty of care from the inherently governmental nature of the conduct at issue, and the absence of a statutory duty of care from the language of the applicable statutes. This is the analysis that Trianon dictates. George v. Hitek thus embodies both the correct analysis as to legal duty in the context of a governmental entity's conduct, and the correct outcome as to the question before this court.

Finally, it should be noted that if no duty of care exists with respect to DOC's supervision of prisoners, then the foreseeable zone of risk analysis discussed in **McCain v. Florida Power Corp.**, 593 So.2d 500 (Fla. 1992) cannot apply.

If this court answers the certified question in the affirmative on a conclusion that Restatement §315(a) and §319 do apply to the custodial relationship between DOC and prisoners, then DOC's duty of care did not extend to Robert McGhee, based upon the facts of this case.

Section 319 of the Restatement (second) does not address the issue of to whom a reasonable duty of care is owed when an entity assumes control of a dangerous person. However, courts in other jurisdictions have noted that prison officials are not absolute insurers of the public's safety. **See Wilson v. State, Department of Public Safety and Corrections**, 576 So.2d 490 (La. 1991).

In **Wilson**, the court, in a case involving a robbery committed by an escaped inmate, analyzed the scope of the duty owed by prison officials as follows:

> Custodians of prisoners have a duty to manage the affairs of the prison so as not to create an unreasonable risk of harm to the public. This duty does not encompass all harm inflicted by escapees. Although prison authorities have a duty to prevent inmates from escaping, that duty is intended to prevent persons from being harmed by escaping inmates while they are in the process of escaping. The duty is not intended to protect persons from harm inflicted by inmates who have already escaped and who subsequently commit tortious acts in the furtherance of their own pursuits. The state is not the insurer of the safety of its citizens . . . . In resolving the scope of the duty issue, improper emphasis has occasionally been placed on foreseeability or on the proximity of time and distance between the escape and the escapee's offenses that cause the injury to his victim. The proper question is whether the offense occurred during, or as an integral part of, the process of escaping. [cite omitted]

Id., 576 So.2d at 493.

In **Wilson**, the escaped inmate, who was incarcerated for armed robbery, robbed the victims of a truck, food and clothing at a location between eight and fifteen miles from the prison and

thirteen days after escaping. In finding that prison officials owed a duty to the victims, the court noted that prison officials knew the inmate was dangerous, that he would likely seek food, clothing and transportation to make his way out of the state, and that the victim's residence was located inside the search perimeters set up by prison officials after the escape. Critical to the analysis of the scope of duty issue, however, was the fact that the search effort was still actively in progress at the time of the robbery, and the robbery site was with in the normal area of containment set up by prison personnel in the event of a prison break. The court relied upon these factors in concluding that the robbery was a necessary and integral component of the escape process.

The Fifth Circuit court of Appeals in **Nelson v. Parish of Washington**, 805 F. 2d 1236 (5th Cir. 1986), applying Louisianan law, analyzed whether prison officials owed a duty to the plaintiffs, whose daughter was raped and murdered by an escaped inmate, considering such factors as whether the escapee had a known propensity for violence, whether he was incarcerated for the same type of conduct inflicted upon the victim, whether he posed a particular risk of harm, whether the injury occurred during the process of escape, and the relationship between the time and place of injury and the escape. The inmate was incarcerated for the aggravated rape of a nine-year-old girl, had a formidable record of escape attempts, and had announced to his

jailers his intention to kill himself rather than go to the state penitentiary. Thirteen days and 750 miles after escaping from the jail, the inmate raped and murdered the girl in Missouri.

Despite the fact that the Louisiana jailers clearly knew or should have known of the inmate's propensity for violence and his high risk for escape, the court declined to extend the defendant's duty of care to the rape murder victim, again recognizing, as the court in **Wilson** did, that the ability of prison officials to control the escaped inmates' conduct at the time and place of injury was the decisive factor in the scope of duty determination. In so limiting the duty owed, the court stated:

> Louisiana case law clearly demonstrates that [victim] Jennifer Barden did not fall within the scope of the Washington Parish Sheriff's duty to exercise due care in the prevention of escapes by prisoners. Only those people who reside within the vicinity of the prison, and who the prisoner injures within a reasonable time after his escape, may assert a cause of action against a negligent jailer. By requiring the escapee to have injured the victim during the course of his escape, the courts have necessarily imposed a time and space limitation upon the duty of a jailer to exercise reasonable care in preventing the escape of prisoners. This limitation, of course, is not static; rather it is dynamic and fact-dependent.. It is not incumbent upon this court, however, to construe the parameters of this limitation. Suffice it to say that Louisiana courts have never extended the duty to include a plaintiff who was injured as far as sixty miles and as long as eleven days after the prisoner's escape, to a plaintiff who was over one hundred miles away from the escape, where the breach of duty and the duty

> breached "were not sufficiently related to the injuries received as to import liability for damages resulting from the breach,]" and to a plaintiff whose injury lacked a "closer connection between the act of the defendant and the injury to the plaintiff." . . . Thus, whether their opinions are couched in the language of proximate cause or of duty-risk, Louisiana courts have not extended a jailer's duty to reasonably prevent the escape of a prisoner to a plaintiff who has been injured without the state.

Id., 805 F.2d at 1242. **See also Reid v. State**, 376 So.2d 977, 979 (La. App. 1st Cir. 1979) (no duty where the injury occurred eleven days and sixty miles away); **Graham v. State, Department of Health and Social Rehabilitation**, 354 So.2d 602 (La. App. 1st Cir. 1978) (no duty where injury occurred over 100 miles from the site of the escape).

The Oregon Supreme Court in **Buchler v. State, Oregon Corrections Division**, 853 P.2d 798 (Or. 1993), in a case involving the fatal shooting of one individual and injury to another by an escaped inmate, similarly considered the lapse of 2 days and 50 miles between the escape and the injury to conclude that the victims were not within the scope of the duty owed by prison officials.

Applying the above considerations to the shooting of Robert McGhee, it is clear that DOC's negligence in permitting Woolard and Bruner to escape did not create a zone of risk which encompassed McGhee. The injury in this case occurred over 300 miles from Bonifay, two state lines and 46 hours after the escape from DOC custody. At the time that Bruner and Woolard encountered McGhee, DOC had already followed every known lead in

its search and recapture efforts, and had called personnel assigned to search for the inmates back to Holmes Correctional Institution. Ocean Springs clearly did not lie within an are of containment after inmate escape from Holmes Correctional Institution. The testimony of Inspector Keen established that Florida prison and law enforcement officials contacted more than 12 other law enforcement agencies in surrounding areas after the escape, and that Alabama authorities relayed to Florida that a kidnapping had occurred in Brewton in close proximity to the time of Bruner and Woolard's flight from prison. When Burnett escaped in ocean Springs, local police broadcast BOLO information as part of efforts to capture the inmates. Officers Summers and Bourgeois testified that although Ocean Springs police broadcast radio information regarding Woolard and Bruner to the nation park prior to the murder, no one responded from the park. Bourgeois acknowledged that while local police and the national park had overlapping jurisdictions, the park rangers did not follow local police practices for communicating their activities over police radio. All evidence indicated that McGhee stopped Bruner and Woolard not because he suspected them of the Burnett kidnapping, but for a routine traffic infraction. These facts demonstrate that the shooting occurred long after the inmates had left the last vestiges of DOC's control over them and over all possible efforts to recapture them. Regardless of whether DOC knew or should have known that the inmates were escape risks or had violent criminal histories, or might be heading to New Orleans,

the facts show that Florida prison officials did not have the practical ability to stop the inmates from killing McGhee.

An objective evaluation as to whether DOC had the ability to control the conduct of its inmates after they left DOC custody in Bonifay and the surrounding search perimeter is the correct analysis to determine to whom the duty of care was owed by prison officials. This type of evaluation is fair to victims because liability is predicated on the clearly-ascertainable scope of government control rather than upon the entirely subjective analysis of inmate intentions and the question of whether the government knew or should have known of those intentions. Even if a foreseeability analysis based upon inmate intentions were employed, however, the result in this case would be the same. Bruner and Woolard participated in acts which demonstrated that they had embarked upon a course wholly independent of their original escape. The testimony of Burnett established that they traveled to Brewton, where they kidnapped her and robbed the motel of $180. The inmates kept Burnett hidden in Ocean Springs for seven hours and the registered at an Ocean Springs motel. The inmates stopped to commit serious, highly visible crimes in Brewton and Ocean Springs even though they were prepared for long-distance flight out of the country.

Strong policy reasons support a limitation, based upon DOC's ability to control the inmates, on the scope of the duty owed by the state to protect individual members of the general public from escaped inmates. To hold otherwise would impose strict

liability upon the state whenever an inmate escapes, regardless of where and when the inmate causes harm and whether the state has any practical ability to control the conduct of the escapee. If Florida owed a duty to McGhee, several hundred miles and two days from the site of the escape, the parameters of that duty logically could be extended to include every victim in the path of an inmate who escaped from Florida confinement. There is no indication that the limited waiver of sovereign immunity was intended to encompass such liability.

Moreover, under §768.28(9)(a), Florida Statutes, the state did not waive immunity for the malicious, wanton and willful acts of its employees. If the state is immune from liability for such acts by its own employees, it should, as a matter of public policy be immune from liability for the malicious conduct of third parties whose acts occur at a time and place beyond the state's ability to exercise control over them.

CONCLUSION

The certified question should be answered in the negative. This court should approve the decision of the district court.

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Answer Brief has been furnished by U.S. Mail to Louis K. Rosenbloum, Esquire, and Virginia M. Buchanan, Esquire, Levin, Middlebrooks, Mabie, Thomas, Mayes & Mitchell, P.A., P.O. Box 12308, Pensacola, FL 32581, and Dawn Wiggins Hare, Esquire, Hare and Hare, P.O. Box 833, Monroeville, AL 36461, Jack W. Shaw, Jr., Esquire, Suite 1400, 225 Water Street, Jacksonville, FL 32202-5147, and Loren E. Levy, Esquire, P.O. Box 10583, Tallahassee, FL 32302, this 25th day of August, 1995.

Respectfully submitted,

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