

FILED

SID J. WHITE

FEB 19 1997

CLERK, SUPREME COURT
By _____
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA,

ERIC ILKANIC,

Petitioner,

v.

STATE OF FLORIDA,

Respondents.

Case No. 97-
4th DCA Case No. 95-0169

89, 192

RESPONDENTS BRIEF ON JURISDICTION

ROBERT BUTTERWORTH
ATTORNEY GENERAL
Tallahassee, Florida

DAVID M. SCHULTZ
Assistant Attorney General
Florida Bar No. 0874523
1655 Palm Beach Lakes Blvd
Suite 300
West Palm Beach, FL 33401
(561) 688-7759

Counsel for Respondents

TABLE OF CONTENTS

	<u>PAGE</u>
TABLE OF AUTHORITIES	ii
STATEMENT OF THE CASE	1
SUMMARY OF ARGUMENT	2
ARGUMENT	3
THIS COURT SHOULD REFUSE TO INVOKE ITS DISCRETIONARY JURISDICTION	
CONCLUSION	4
CERTIFICATE OF SERVICE	5

TABLE OF AUTHORITIES

Page Number

STATE STATUTES

Chapter 94-342, Laws of Florida , , 1
Florida Statutes §§ 960.07 et. seq. 1, 3

1

STATEMENT OF THE CASE

On May 3, 1995, the Honorable Robert S. Zack, County Court Judge of Broward County, Florida, entered an order declaring chapter 94-342, Laws of Florida, codified as sections 960.07, et. seq., Florida Statutes (1994), to be unconstitutional. On October 23, 1996, the Fourth District Court of Appeal issued its opinion reversing this order and holding that the statute is not unconstitutional.

SUMMARY OF ARGUMENT

Petitioner seeks the discretionary review of this Court on the basis that the Fourth District Court of Appeal expressly declared valid a state statute. The opinion of the district court of appeal is limited to an analysis of only one reason the county court found the statute unconstitutional, that being for violation of due process. The analysis **and** opinion of the district court of appeal is correct, so jurisdiction should be declined.

ARGUMENT

**THIS COURT SHOULD REFUSE
TO INVOKE ITS DISCRETIONARY JURISDICTION**

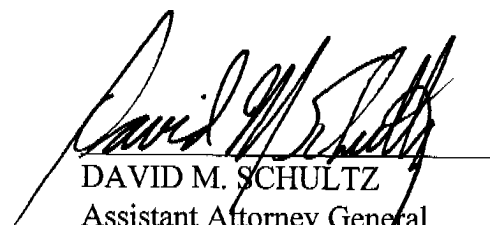
Petitioner seeks the discretionary review of this Court on the basis that the Fourth District Court of Appeal expressly found constitutional Florida Statutes §§960.07 et. seq. Although the county court order found that the law violates the Equal Protection and Due Process provisions of the United States and Florida constitutions, that it is unconstitutionally vague, and that it is unconstitutional because it imposes excessive fines, the opinion of the district court of appeal was limited to a due process analysis. This analysis, conclusion and resulting holding is a correct pronouncement of the law.

CONCLUSION

Although it appears as though this Honorable Court could invoke its discretionary jurisdiction, based on the above respondent requests that it refuse to accept jurisdiction in this cause.

Respectfully submitted,

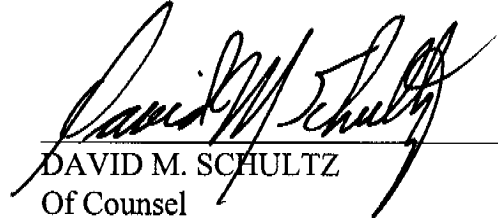
ROBERT BUTTERWORTH
ATTORNEY GENERAL
Tallahassee, Florida



DAVID M. SCHULTZ
Assistant Attorney General
Florida Bar No. 0874523
1655 Palm Beach Lakes Blvd
Suite 300
West Palm Beach, FL 33401
(561) 688-7759

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been furnished by U.S. Mail to Diane M. Cuddihy, Esq., Assistant Public Defender, Office of the Public Defender, 201 S.E. 6th Street, Fort Lauderdale, Florida 33301 this 14th day of February, 1997.



DAVID M. SCHULTZ
Of Counsel