

IN THE SUPREME COURT OF FLORIDA

JONATHAN JEFFRIES,)
)
 Petitioner,)
) CASE NO. 92,007
vs.) DCA CASE NO. 97-35
)
)
STATE OF FLORIDA,)
)
)
 Respondent.)
_____)

ON DISCRETIONARY REVIEW
FROM THE DISTRICT COURT OF APPEAL,
FIFTH DISTRICT

PETITIONER'S REPLY BRIEF ON THE MERITS

JAMES B. GIBSON
PUBLIC DEFENDER
SEVENTH JUDICIAL CIRCUIT

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SUMMARY OF ARGUMENT

The State's sole argument entirely begs the question presented in this proceeding, which is whether the petitioner was obliged to file a motion in the trial court pursuant to Rule 3.800 of the Criminal Procedure Rules. For the reasons expressed in petitioner's initial brief on the merits the state's argument should be rejected.

ARGUMENT

POINT I

IN REPLY: THE CRIMINAL APPEAL REFORM ACT DOES NOT APPLY TO THIS CASE, AND DOES NOT APPLY GENERALLY TO CASES GOVERNED BY THE JUVENILE-DELINQUENCY PROVISIONS OF THE FLORIDA STATUTES; THE DECISIONS IN THIS CASE AND IN CARGLE v. STATE, 701 SO. 2D 359 (FLA. 1ST DCA 1997), ARE INCONSISTENT WITH STATE v. T.M.B., 23 FLA. L. WEEKLY S180 (FLA. APRIL 2, 1998).

The State argues, with repetitive insistence, that the Petitioner had the *right* to file a motion pursuant to Rule 3.800 of the Criminal Procedure Rules and did not do so, and that therefore he has forfeited the privilege of direct appeal. This argument entirely begs the question presented in this discretionary review proceeding, which is whether the defendant had the *obligation* to file such a motion as a condition precedent to an appeal. For the reasons expressed in his initial brief on the merits, the Petitioner submits that the Legislature intended to create no such condition precedent for cases involving juveniles who are sentenced in the criminal divisions of the Circuit Courts.

The State further argues that this court should adopt the position that the Fifth District Court of Appeal has taken in Maddox v. State, 23 Fla. L. Weekly D720 (Fla. March 20, 1998), which is that fundamental error can *never* take place in the

sentencing context in any case governed by the Criminal Appeal Reform Act of 1996. First, the Criminal Appeal Reform Act is not applicable to this case, so this court should not reach the fundamental-error question. State v. T.M.B., 23 Fla. L. Weekly S180 (Fla. April 2, 1998). If this court disagrees and holds that the Appeal Reform Act does apply to this case, this court should decline to follow Maddox and should instead adhere to the decision in Veach v. State, 614 So. 2d 680 (Fla. 1st DCA 1993), affirmed 630 So. 2d 1096 (Fla. 1994) (see Petitioner's initial brief on the merits at 9-10). Maddox is pending review in this court's case no. 92,805, and is not a well-reasoned application of this court's precedent; Harriel v. State, 23 Fla. L. Weekly D967 (Fla. 4th DCA April 15, 1997) and Mason v. State, 23 Fla. L. Weekly D944 (Fla. 1st DCA April 4, 1998), which certify conflict with Maddox, represent the better-reasoned rule and they should be adopted by this court. Veach correctly holds that the Legislature has placed the burden on the trial courts to ensure that the Legislature's elaborate and earnest juvenile-justice scheme, which balances society's needs against those of troubled teenagers and children, is scrupulously applied in every case. No precedent or other authority requires this court to recede from its decision affirming Veach, and the State's argument based on Maddox should be rejected.

CONCLUSION

The petitioner requests this court to quash the District Court's decision in this case, to vacate the sentencing order entered by the trial court, and to remand this case for the trial court to consider the sentencing criteria mandated by the Legislature.

Respectfully submitted,
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A true and correct copy of the foregoing has been served on Robert A. Butterworth, Attorney General, of 444 Seabreeze Blvd., Fifth Floor, Daytona Beach, Florida, 32118, and by U.S. Mail to Mr. Johnathan Jeffries, No. J02279, Lancaster Work Camp, P. O. Box 158,

Trenton, FL 32693 on this 16th day of July, 1998.

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Assistant Public Defender

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C E R T I F I C A T E O F F O N T

I hereby certify that the size and style of type used in this brief is 12 point Courier New, a font that is not proportionately spaced.

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