

IN THE SUPREME COURT OF FLORIDA

STATE OF FLORIDA,

Petitioner,

v.

CAROL LEIGH THOMPSON,

Respondent.

Case No.

ON PETITION FOR REVIEW FROM
THE SECOND DISTRICT COURT OF APPEAL
STATE OF FLORIDA

JURISDICTIONAL BRIEF OF PETITIONER

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL

ROBERT J. KRAUSS
Senior Assistant Attorney General
Chief of Criminal Law, Tampa
Florida Bar No. 238538

SUSAN D. DUNLEVY
Assistant Attorney General
Florida Bar No. 229032
2002 North Lois Avenue, Suite 700
Tampa, Florida 33607-2366
(813)873-4739

COUNSEL FOR PETITIONER

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

STATEMENT OF THE CASE AND FACTS 1

SUMMARY OF THE ARGUMENT 1

ARGUMENT 2

WHETHER CONFLICT EXISTS BETWEEN THE INSTANT DECISION AND
A DECISION OF THIS COURT OR OTHER DISTRICT COURTS ON THE
ISSUE OF WHETHER CHAPTER 95-182, LAWS OF FLORIDA, IS
UNCONSTITUTIONAL AS VIOLATIVE OF THE ONE SUBJECT RULE.2

CONCLUSION 3

CERTIFICATE OF SERVICE 3

TABLE OF AUTHORITIES

CASES

Higgs v. State,
695 So. 2d 872 (Fla. 3d DCA 1997) 2

CONSTITUTIONAL PROVISIONS AND STATUTES

Article III, Section 6, Florida Constitution 2

Chapter 95-182 1,2

Section 775.084, Florida Statutes 1,2

Section 775.08401, Florida Statutes 1,2

Section 775.0841, Florida Statutes 1,2

Section 775.0842, Florida Statutes 1,2

Section 775.0843, Florida Statutes 1,2

Section 790.235, Florida Statutes 1,2

STATEMENT OF THE CASE AND FACTS

The opinion of the Second District Court of Appeal, a copy of which is appended hereto, outlines the relevant facts at this stage of the proceedings.

SUMMARY OF THE ARGUMENT

The opinion of the Second District Court of Appeal holding unconstitutional as violative of the one subject rule Chapter 95-182, Laws of Florida, Sections 1 through 7 of which are entitled the Officer Evelyn Gort and All Fallen Officers Career Criminal Act of 1995, is in conflict with a decision of the Third District Court of Appeal holding that statute constitutional. Whether the amendments made by this Act to Sections 775.084, 775.08401, 775.0841-775.0843, and 790.235 of the Florida Statutes are applicable to offenders who would qualify as violent career criminals under the amended statutes for offenses committed during the "window period" prior to the reenactment of these statutes on May 24, 1997 is of grave significance to crime victims and potential crime victims in the State of Florida, and this Court should therefore grant review of this case.

ARGUMENT

WHETHER CONFLICT EXISTS BETWEEN THE INSTANT DECISION AND A DECISION OF THIS COURT OR OTHER DISTRICT COURTS ON THE ISSUE OF WHETHER CHAPTER 95-182, LAWS OF FLORIDA, IS UNCONSTITUTIONAL AS VIOLATIVE OF THE ONE SUBJECT RULE.

The opinion of the Second District Court of Appeal in the instant case is in conflict with the earlier decision of the Third District Court of Appeal in *Higgs v. State*, 695 So. 2d 872, 873 (Fla. 3d DCA 1997), which held that "there is a reasonable and rational relationship between each of the sections of the said Act." The Second District acknowledged the conflict in its opinion.

The window period within which Chapter 95-182 is subject to challenge as violative of the single subject requirement of Article III, Section 6, of the Florida Constitution covers a time span of nearly 20 months, and the applicability of the amendments made by Sections 1 through 7 of this Act, also known as the Officer Evelyn Gort and All Fallen Officers Career Criminal Act of 1995, to Sections 775.084, 775.08401, 775.0841-775.0843, and 790.235 of the Florida Statutes to offenders who would qualify as violent career criminals under the amended statutes for offenses committed during this window period is of great significance both to the offenders themselves and to crime victims and potential crime victims in the State of Florida. This Court should therefore grant review of this case.

CONCLUSION

Based on the foregoing facts, argument, and citations of authority, Petitioner respectfully requests that this Honorable Court exercise its discretion to review the instant case and resolve the existent conflict.

Respectfully submitted,

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL

ROBERT J. KRAUSS
Senior Assistant Attorney General
Chief of Criminal Law, Tampa
Florida Bar No. 238538

SUSAN D. DUNLEVY
Assistant Attorney General
Florida Bar No. 0229032
2002 N. Lois Ave. Suite 700
Tampa, Florida 33607-2366
(813) 873-4739

COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to Richard J. Sanders, Assistant Public Defender, Office of the Public Defender—Appeals, Pinellas Criminal Justice Center, 14250 49th Street North, Clearwater, Florida 34622, this 15th day of April, 1998.

COUNSEL FOR PETITIONER