

IN THE SUPREME COURT OF FLORIDA

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DEC 28 1998

CLERK, SUPREME COURT
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STATE OF FLORIDA,

Petitioner,

v.

CLINTON R. WOODS,

Respondent.

CASE NO. 93,439

PETITIONER'S REPLY BRIEF ON THE MERITS

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PRELIMINARY STATEMENT

Petitioner, the State of Florida, the Appellee in the First District Court of Appeal and the prosecuting authority in the trial court, will be referenced in this brief as Petitioner, the prosecution, or the State. Respondent, Clinton R. Woods, the Appellant in the First District Court of Appeal and the defendant in the trial court, will be referenced in this brief as Respondent or his proper name.

The record on appeal consists of two volumes. This brief will refer to a volume according to its respective designation within the Index to the Record on Appeal. A citation to a volume will be followed by any appropriate page number within the volume. "AB" will designate Respondent's Answer Brief, followed by any appropriate page number. The opinion of the First District is attached as an Appendix.

CERTIFICATE OF FONT AND TYPE SIZE

Counsel certifies that this brief was typed using Courier New 12.

ARGUMENT

ISSUE

WHETHER A DEFENDANT CAN BE CONVICTED OF ONLY ONE
COUNT OF RESISTING AN OFFICER WITH VIOLENCE NO
MATTER HOW MANY OFFICERS ARE RESISTED.

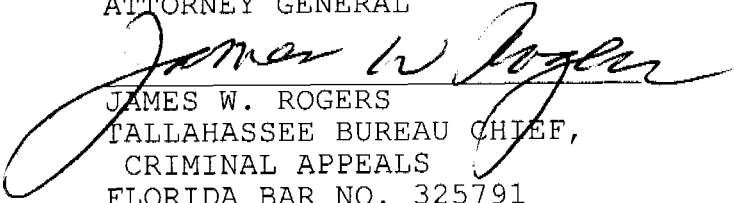
In Wallace v. State, No. 90,287 (Fla. Dec. 10, 1998), this Court held that only one conviction for resisting an officer with violence is permitted no matter how many officers are resisted and rejected the position taken by the State in its Initial Brief. While the State contends that Wallace was wrongly decided, it acknowledges that Wallace controls the outcome here. If this Court does not recede from Wallace, it should approve the decision of the First District.


CONCLUSION

Based on the foregoing discussion and the discussion in the Initial Brief, the State respectfully submits that this Court should recede from its decision in Wallace v. State, No. 90,287 (Fla. December 10, 1998), reverse the decision of the First District, and affirm the convictions and sentences entered in the trial court. If it does not recede from Wallace, this Court should approve the decision of the First District.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing PETITIONER'S REPLY BRIEF ON THE MERITS has been furnished by U.S. Mail to Mark E. Walker, Assistant Public Defender, Leon County Courthouse, Suite 401, 301 South Monroe Street, Tallahassee, Florida 32301, this 28th day of December, 1998.



L. Michael Billmeier
Attorney for the State of Florida

[C:\USERS\CRIMINAL\PLEADING\98107879\WOODS-BR.WPD --- 12/28/98,8:59 am]