

IN THE SUPREME COURT OF FLORIDA

CASE NO. 94,474

GILBERT EDWARD SPANN,

Petitioner,

-vs-

THE STATE OF FLORIDA,

Respondent.

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2019
FILED

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Chief Deputy Clerk

ON PETITION FOR DISCRETIONARY REVIEW

BRIEF OF RESPONDENT ON THE MERITS

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INTRODUCTION

The Petitioner, GILBERT EDWARD SPANN, was the Defendant in the trial court and the Appellant in the Third District Court of Appeal ("Third District"). The Respondent, THE STATE OF FLORIDA, was the prosecution in the trial court and the Appellee in the Third District. In this brief, the parties will be referred to as they stood in the trial court. The symbols "R." and "T." will refer to the record on appeal and the transcripts of the proceedings, respectively.

CERTIFICATE OF FONT AND TYPE SIZE

The undersigned has utilized 12 point courier new in preparing this brief.

STATEMENT OF THE CASE AND FACTS

The State accepts the Defendant's statement of the case and facts as a substantially correct and non-argumentative recitation of the relevant facts and procedural history of this case.

POINT INVOLVED ON APPEAL

WHETHER THE LOWER COURT CORRECTLY RULED THAT CHAPTER 95-182, LAWS OF FLORIDA, DOES NOT VIOLATE THE SINGLE SUBJECT REQUIREMENT OF FLORIDA'S CONSTITUTION.

SUMMARY OF THE ARGUMENT

There is a natural and logical connection among sections of the Gort Act. The first part concerns sentencing for aggravated stalking and other forms of violent conduct. The second part provides a remedy for the victims of this conduct when the conduct occurs in a relationship. These provisions have a cogent relationship to each other. Thus, the Gort Act does not violate the single subject provision of Florida's Constitution and this Court should affirm the decision below.

As the issue in the instant case is the precise issue presently pending before this Court in State v. Thompson, Case No. 92,831, and since the Defendant has fully adopted the defense brief filed in this Court in Thompson for his initial brief, the State fully adopts the State's brief filed in this Court in Thompson for the State's answer brief in this case.

ARGUMENT

THE LOWER COURT CORRECTLY RULED THAT CHAPTER 95-182, LAWS OF FLORIDA, DOES NOT VIOLATE THE SINGLE SUBJECT REQUIREMENT OF FLORIDA'S CONSTITUTION.

In the instant case, the trial court sentenced the Defendant as a violent career criminal to thirty-five years in state prison with a thirty year minimum-mandatory sentence pursuant to the §775.084(4)(c), Fla. Stat. (1995), the "Gort Act." (R. vol II, p. 206-208). Now, the Defendant is arguing, as he argued in the Third District, that his violent career criminal sentence should be vacated because §775.084(4)(c), Fla. Stat. (1995) is unconstitutional on the ground that the session law enacting it, Chapter 95-182, Laws of Florida, violates the single subject provision of the Florida Constitution. This Court should reject this claim and affirm the lower court's ruling.

As noted by the Defendant, the Third District has previously held that chapter 95-182 does not violate the single subject requirement of the Florida Constitution. Higgs v. State, 695 So. 2d 872 (Fla. 3d DCA 1997). The Second District has held to the contrary. See Thompson v. State, 708 So. 2d 315 (Fla. 2d DCA 1998). Hence, although the Third District affirmed the lower court's ruling in the instant case on the authority of Higgs, in light of Thompson, the Third District also certified conflict with

Thompson.

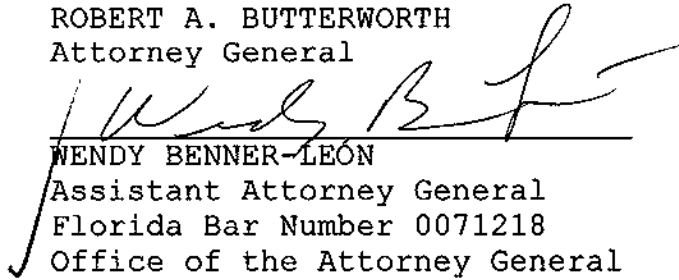
The issue in the instant case is the exact issue currently pending before this Court in State v. Thompson, No. 92,831. The Defendant has adopted the defense brief in State v. Thompson. In the interest of judicial economy, the State adopts the arguments made in the State's brief filed in this Court in State v. Thompson for the answer brief in this case.

CONCLUSION

Based upon the foregoing, the State submits that the Third District properly held that Chapter 95-182 does not violate the single subject provision of the Florida Constitution. This Court should therefore affirm.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Brief of Appellee was mailed this 25th day of January, 1999, to Howard K. Blumberg, Assistant Public Defender, Office of the Public Defender, 1320 N.W. 14th Street, Miami, FL 33125.



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