

IN THE SUPREME COURT OF FLORIDA

CASE NO. 95,265

**STATE OF FLORIDA,**

Petitioner,

vs.

**JEAN DAVID PAUL,**

Respondent.

\*\*\*\*\*  
ON DISCRETIONARY REVIEW FROM THE FOURTH DISTRICT COURT OF APPEAL  
\*\*\*\*\*

PETITIONER'S SUPPLEMENTAL INITIAL BRIEF ON THE MERITS

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CERTIFICATE OF TYPE SIZE AND STYLE

In accordance with the Florida Supreme Court Administrative Order, issued on July 13, 1998, and modeled after Rule 28-2(d), Rules of the United States Court of Appeals for the Eleventh Circuit, counsel for the State of Florida, Appellant herein, hereby certifies that the instant brief has been prepared with 12 point Courier New type, a font that is not spaced proportionately.

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**Statutes Cited**

Section 903.046, Florida Statute . . . . . 2  
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Section 903.26, Florida Statutes . . . . . 2  
Section 907.041, Florida Statutes . . . . . 2, 4

**Other Authority Cited**

Chapter 2000-178, Laws of Florida . . . . . 2-5

PRELIMINARY STATEMENT

Petitioner, the State of Florida, was the prosecution in the trial court and Respondent in the Fourth District Court of Appeal. Petitioner will be referred to herein as "the State". Respondent, Jean David Paul, was the defendant in the trial court and Petitioner in the Fourth District Court of Appeal. He will be referred to herein as "Respondent" or "Defendant". References to the record will be indicated as "R" followed by the title of the document referenced. Reference to the transcript will be by "T" followed by the page number. The Appendix consists of the Fourth District Court of Appeal's opinion and mandate (Exhibit A), chapter 2000-178 (Exhibit B), Criminal Justice Appropriations Analysis (Exhibit C), and this Court's June 9, 2000 order requiring supplemental briefing (Exhibit D).

STATEMENT OF THE CASE AND FACTS

The State will rely upon its Statement of the Case and Facts presented in its initial brief in addition to the following.

On March 3, 1999, the Fourth District Court of Appeal issued its opinion in Paul v. Jenne, 728 So. 2d 1167 (Fla. 4 DCA 1999) and certified conflict with the Third District Court of Appeal's decision in Houser v. Manning, 719 So. 2d 307 (Fla. 3d DCA 1998). (Exhibit A). This Court stayed the proceedings in the lower tribunals and on November 5, 1999, heard oral argument.

Responding to the Paul and Houser conflict, on June 2, 2000, chapter 2000-178, Laws of Florida was enacted by the legislature. (Exhibits B at 9 and C at 5). In addition to amending sections 903.046, 903.26, and 907.041, Florida Statutes, chapter 2000-178 created section 903.0471, Florida Statutes (2000) which provides for the trial court to revoke a defendant's existing bond and order pretrial release upon a finding of probable cause that the defendant committed a new crime. (Exhibit B at 9). Based upon the recent legislative action, this Court ordered the parties to serve supplemental briefs addressing:

How the recent enactment of Act effective June 2, 2000, chapter 2000-178, affects the issue presented by this case, and whether this appeal is moot by virtue of this recent amendment.

Order dated June 9, 2000. (Exhibit D).

### SUMMARY OF THE ARGUMENT

In response to the conflict certified in Paul, the legislature created section 903.0471, Florida Statutes (2000) through the passage of chapter 2000-178. Such statute gives the trial court authority to revoke a bond and order pretrial detention upon a probable cause finding the defendant committed a new crime while on bail. Hence, the issue in the instant appeal is moot.

ARGUMENT

PASSAGE OF CHAPTER 2000-178 MAKES THE ISSUE  
PRESENTED IN THE INSTANT APPEAL MOOT.

At issue is the resolution of conflict between Paul and Houser. In Houser, the court found judges had the inherent authority to order pretrial detention upon finding the defendant violated his bond by committing a new crime. Conversely, the court in Paul required readmittance to bail unless the defendant qualified for detention under section 907.041, Florida Statute. The State argued this Court should follow the reasoning in Houser.

Section 3 of chapter 2000-178 created section 903.0471, Florida Statutes which addresses violations of pretrial release. It provides:

notwithstanding section 907.041, a court may, on its own motion, revoke pretrial release and order pretrial detention if the court finds probable cause to believe that the defendant committed a new crime while on pretrial release.

(Exhibit B). This was the legislature's solution to the conflict between Paul and Houser. (Exhibit C at 5). Such enactment makes it clear courts are empowered to deny pretrial release to defendants who violate their bail terms by committing a new crime. Because section 903.0471 resolves the conflict between the district courts, the issue of whether trial courts have the inherent authority to deny bail is moot.



CONCLUSION

Wherefore, based on the foregoing, Petitioner acknowledges the issue before the Court is moot in light of chapter 2000-178.

Respectfully submitted,  
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing "Initial Brief of Appellant" has been furnished by U.S. Mail and Facsimile, to: Diane M. Cuddihy, Chief Assistant Public Defender, Broward County Courthouse, 201 S.E. 6th Street, North Wing - Third Floor, Fort Lauderdale, Fl 33301 on this \_\_\_\_\_ day of June 2000.

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