

IN THE SUPREME COURT OF FLORIDA

CASE NO. 95,427

OSVALDO VALDES,

Petitioner,

-vs-

THE STATE OF FLORIDA,

Respondent.

ON PETITION FOR DISCRETIONARY REVIEW

BRIEF OF RESPONDENT ON THE MERITS

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INTRODUCTION

The Petitioner, OSVALDO VALDES, was the Defendant in the trial court and the Appellant in the Third District Court of Appeal (hereafter, "Third District"). 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

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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.

QUESTION PRESENTED

WHETHER THE LOWER COURTS CORRECTLY RULED THAT CHAPTER 95-184 LAWS OF FLORIDA DID NOT VIOLATE THE SINGLE SUBJECT PROVISION, ARTICLE III, §6 OF THE FLORIDA CONSTITUTION?

SUMMARY OF THE ARGUMENT

There is a natural and logical connection among sections of the Crime Control Act. The first part concerns sentencing for crimes involving domestic violence and other forms of violent conduct. The second 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 Crime Control Act does not violate the single subject provision of Florida's Constitution. For all of these reasons, this Court should affirm the decision below.

As the issue in the instant case is the precise issue presently pending before this Court in Trapp v. State, Case No. 96,074 and State v. Thompson, Case No. 92,831, and since the Defendant has fully briefed the issues as filed in this Court in Trapp and Thompson in his initial brief, the State will therefore fully adopt the State's brief, Issue II, filed in this Court in Trapp and the argument as set out in Thompson for the State's answer brief in this case.

ARGUMENT

THE LOWER COURTS CORRECTLY RULED THAT CHAPTER 95-184 LAWS OF FLORIDA DID NOT VIOLATE THE SINGLE SUBJECT PROVISION, ARTICLE III, §6 OF THE FLORIDA CONSTITUTION.

In the instant case, the trial court sentenced the Defendant on September 3, 1997, to thirty years imprisonment for the offenses committed on July 21, 1996, of second-degree murder, attempted second degree murder and aggravated battery pursuant to the 1995 sentencing guidelines which applied to crimes committed between October 1, 1995 and May 24, 1997. §775.084(4)(c), Fla. Stat. (1995), the "Gort Act." (R/Vol.I:1-4, Vol.II:344-347). Now, the Defendant is arguing, as he argued in the Third District, that his sentences are unlawful and should be vacated because §775.084(4)(c), Fla. Stat. (1995) is unconstitutional on the ground that the session law that enacted it, Chapter 95-184, Laws of Florida, violated the single subject provision of the Florida Constitution. This Court should reject this claim and affirm the lower court's ruling.

The Third District has previously held that chapter 95-182 did not violate the single subject requirement of the Florida Constitution. Holloway v. State, 712 So. 2d 439 (Fla. 3d DCA 1998), *review granted*, (Fla. Case No. 93,437, October 12, 1998); Higgs v. State, 695 So. 2d 872 (Fla. 3d DCA 1997). On the other

hand, the Second District has held to the contrary. Thompson v. State, 708 So. 2d 315 (Fla. 2d DCA 1998). Hence, although the Third District affirmed in the instant case on the authority of Holloway and Higgs, in light of Thompson, the Third District also certified conflict with Thompson. See also Heggs v. State, 718 So. 2d 263 (Fla. 2d DCA 1998), *review granted*, 720 So. 2d 518 (Fla. 1998).

The issue in the instant case is the exact issue currently pending before this Court in State v. Thompson, No. 92,831 and Trapp v. State, No. 96,074. Since the Defendant has argued substantially the same issues as contained in the defense brief in State v. Thompson, and, in the interests of judicial economy, the State will therefore adopt the State's brief in Trapp v. State, Issue II regarding chapter 95-184 and State v. Thompson for the answer brief in this case.

CONCLUSION

Based upon the foregoing, the State submits that Third District properly held that Chapter 95-182 did 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 Respondent was mailed this ____ day of November, 1999, to **MANUEL ALVAREZ. Esq.**, Assistant Public Defender, OFFICE OF THE PUBLIC DEFENDER, Eleventh Judicial Circuit Court, 1320 NW 14th Street, Miami, Florida, 33125.

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