

IN THE SUPREME COURT OF THE STATE OF FLORIDA

ISAAC HILL,

Petitioner,

v.

CASE NO. 96,348

STATE OF FLORIDA

Respondent.

REPLY BRIEF OF PETITIONER

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Thompson v. State, 708 So2d 315
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OTHER AUTHORITY

Florida Statute Section
775.084, as amended
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Article III, Section 6,
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CERTIFICATE OF TYPE
SIZE AND STYLE

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SUMMARY OF ARGUMENT

The Petitioner contends in Point I that the Violent Career Criminal provisions of Florida Statute Section 775.084 (1) (c) are unconstitutional. The statute is unconstitutional as Chapter 95-182, Laws of Florida, violate the single subject rule of Article III, Section 6, Florida Constitution.

ARGUMENT

POINT I

THE VIOLENT CAREER CRIMINAL PROVISIONS OF FLORIDA STATUTE SECTION 775.084, AS AMENDED BY CHAPTER 95- 182, LAWS OF FLORIDA, ARE UNCONSTITUTIONAL.

The Respondent contends that Chapter 95-182, Laws of Florida, entitled the "Officer Evelyn Gort and All Fallen Officers Career Criminal Act of 1995" (the Gort Act) is constitutional as there is a reasonable and rational relationship among each of the ten(10) sections of the Gort Act. Petitioner disagrees.

Petitioner and Respondent appear to agree that sections one (1) through seven (7) of the Gort Act create and define the violent career criminal sentencing category and provide sentencing procedures and penalties and therefore they are criminal in nature. Petitioner and Respondent disagree on the nature of sections eight (8) through ten (10) of the Gort Act.

Respondent argues that sections eight (8) and nine (9) are restitutional in nature for the criminal act of domestic violence. Respondent also contends that section ten (10) deals with a criminal matter.

Respondent's argument is contrary to the holding of Thompson v. State, 708

So2d 315 (Fla 2d DCA) rev granted 717 So2d 538 (Fla. 1998) wherein the Second District Court of Appeal found that sections eight (8) through ten (10) were civil in nature and further found that there is no “cogent connection” between sentencing for violent career criminals and providing civil remedies for domestic violence. The Court further found that sections one (1) through seven (7) and eight (8) through ten (10) were not “reasonably related to any crisis the legislature intended to address”. They are two distinct subjects. Thompson supra at 317.

Petitioner contends that based on the rationale of Thompson supra, this Court should declare Florida Statute Section 775.084, as amended by Chapter 95-182, Laws of Florida, unconstitutional and remand this cause to the trial Court for Petitioner’s re-sentencing in accordance with the valid laws in effect at the time of the commission of the offenses.

CONCLUSION

For the reasons stated in Point I, the Violent Career Criminal provisions of Florida Statute Section 775.084 (1) (c) are unconstitutional.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail delivery to Robin A. Compton, Assistant Attorney General, Office of the Attorney General, 444 Seabreeze Blvd., 5th Floor, Daytona Beach, Florida 32118, on this the _____ day of _____, 1999.

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