

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

FREDDIE ALEXANDER,

Appellant,

v.

CASE NO. 99-724

STATE OF FLORIDA,

Appellee.

ON APPEAL FROM THE CIRCUIT COURT
OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA

ANSWER BRIEF OF APPELLEE

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SUMMARY OF ARGUMENT

This Court's finding that the prison releasee reoffender act is constitutional was correct and does not need to be revisited.

Rather than certifying conflict with other district courts, this Court should hold this appeal in abeyance pending resolution of this constitutional issue by the Florida Supreme Court.

ARGUMENT

THIS COURT'S FINDING THAT THE PRISON
RELEASEE REOFFENDER ACT IS
CONSTITUTIONAL WAS CORRECT AND DOES
NOT NEED TO BE REVISITED.

Alexander contends that the prison releasee reoffender act is unconstitutional, as it violates the separation of powers. As Alexander acknowledges, this Court has recently held to the contrary. Speed v. State, 24 Fla. L. Wkly. D1017 (Fla. 5th DCA April 23, 1999). See also Woods v. State, 24 Fla. L. Wkly. D831 (Fla. 1st DCA March 26, 1999) (finding PRR statute constitutional); McKnight v. State, 727 So. 2d 314 (Fla. 3d DCA 1999) (same).

The State disagrees with Alexander's separation of powers argument. Speed was correctly decided by this Court and there is no reason to reconsider this recent decision.

Alexander also asks this Court to certify conflict with the decisions of other district courts construing the statute so as to give trial courts discretion in sentencing. See State v. Wise, 24 Fla. L. Wkly. D657 (Fla. 4th DCA March 10, 1999); Cotton v. State, 728 So. 2d 251 (Fla. 2d DCA 1998). Alexander seeks certification in order to preserve his right to seek further review of this issue.

Numerous cases involving the constitutionality of this statute have already been decided by the courts of appeal and are on their way to the Florida Supreme Court. There is no question that this

issue will soon be decided by the Supreme Court, and its decision will obviously be binding on this Court.

Accordingly, rather than send even more cases to Tallahassee, the State submits that the interests of judicial economy, as well as fairness to this defendant, can best be served by holding this appeal in abeyance pending resolution of this issue by the Supreme Court.

CONCLUSION

Based on the arguments and authorities presented herein, appellee respectfully requests this honorable Court affirm the judgment and sentence of the trial court in all respects.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above Answer Brief has been furnished to Barbara C. Davis, Assistant Public Defender, by delivery to the Public Defender's Basket at the Fifth District Court of Appeal, this _____ day of June, 1999.

Kristen L. Davenport
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