

IN THE SUPREME COURT OF FLORIDA

LARRY ROBINSON,
Petitioner,

CASE NO. 96,481

v.

STATE OF FLORIDA,
Respondent.

_____ /

RESPONDENT'S ANSWER BRIEF ON THE MERITS

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PRELIMINARY STATEMENT

Respondent, the State of Florida will be referred to as Respondent or the State. Petitioner, LARRY ROBINSON, will be referred to as Petitioner or by proper name. The record on appeal consists of one volume. Pursuant to Rule 9.210(b), Fla. R. App. P. (1997), this brief will refer to the volume number followed by the appropriate page number. "IB" will refer to Petitioner's Initial Brief. All double underlined emphasis is supplied.

CERTIFICATE OF FONT AND TYPE SIZE

Counsel certifies that this brief was typed using Courier New 12.

STATEMENT OF THE CASE AND FACTS

The State agrees with petitioner's statement of the case and facts with the following addition:

In Robinson v. State, 738 So. 2d 1019 (Fla. 1st DCA 1999), the First District held chapter 95-182, Laws of Florida, did not violate the single subject requirement of the Florida Constitution. Art. III, § 6, FLA. CONST. In an appeal of an order denying a motion for post-conviction relief, Robinson argued his sentence as a violent career criminal imposed pursuant to chapter 95-182, Laws of Florida, was a violation of Article III, § 6, of the Florida Constitution. The Robinson Court agreed with the decisions of the Third District in Higgs v. State, 695 So.2d 872 (Fla. 3d DCA 1997), and the Fifth District in Hill v. State, 24 FLA. L. WEEKLY D1736 (Fla. 5th DCA July 23, 1999). Accordingly, the First District found Robinson's argument without merit and affirmed his sentence. The Robinson Court cited the First District's earlier decision in Trapp v. State, 736 So.2d 736 (Fla. 1st DCA 1999). Trapp addressed the related issue of the validity of chapter 95-184, not the validity of chapter 95-182 as is raised in this case.¹ As the Third District in Higgs and the Fifth District in Hill had done, the First District, in this case, certified conflict with Thompson

¹ The Trapp Court certified this related issue to this Court and it is pending in case # 96,074. Briefing is complete. The related issue is also pending before this Court in the lead case of Heggs v. State, 718 So.2d 263 (Fla. 2d DCA), *rev. granted*, 720 So.2d 518 (Fla. 1998).

v. State, 708 So.2d 315 (Fla. 2d DCA), *rev. granted*, 717 So.2d 538
(Fla. 1998).

SUMMARY OF ARGUMENT

Petitioner asserts that his violent career sentence is unconstitutional. Specifically, petitioner contends that both chapter laws associated with the violent career criminal statute, the original Gort Act, which created the violent career criminal statute, chapter 95-182, and the amended version, chapter 96-388, violate the single subject provision of the Florida Constitution. Art. III, § 6, FLA. CONST. The State respectfully disagrees. First, petitioner does not have standing to challenge both the original and the amended versions of the Gort Act. Petitioner lacks standing to challenge the original Gort Act, chapter 95-182, because he was sentenced pursuant to the amended version of the statute, chapter 96-388. Therefore, he only has standing to challenge the amended version, chapter 96-388. Furthermore, chapter 96-388 does not violate the single subject provision. All of the sections relate to the single subject of public safety from criminal activity. Thus, chapter 96-388 does not violate the single subject provision of the Florida Constitution.

ARGUMENT

ISSUE I

DOES THE ORIGINAL GORT ACT, CHAPTER 95-182, AND THE AMENDED VERSION OF THE VIOLENT CAREER CRIMINAL STATUTE, CHAPTER 96-388, VIOLATE THE SINGLE SUBJECT PROVISION OF THE FLORIDA CONSTITUTION? (Restated)

Petitioner asserts that his violent career sentence is unconstitutional. Specifically, petitioner contends that both chapter laws associated with the violent career criminal statute, the original Gort Act, which created the violent career criminal statute, chapter 95-182, and the amended version, chapter 96-388, violate the single subject provision of the Florida Constitution. Art. III, § 6, FLA. CONST. The State respectfully disagrees. First, petitioner does not have standing to challenge both the original and the amended versions of the Gort Act. Petitioner lacks standing to challenge the original Gort Act, chapter 95-182, because he was sentenced pursuant to the amended version of the statute, chapter 96-388. Therefore, he only has standing to challenge the amended version, chapter 96-388. Furthermore, chapter 96-388 does not violate the single subject provision. All of the sections relate to the single subject of public safety from criminal activity. Thus, chapter 96-388 does not violate the single subject provision of the Florida Constitution.

The presumption of constitutionality

Legislative acts are strongly presumed constitutional. See State v. Kinner, 398 So.2d 1360, 1363 (Fla. 1981). Courts should resolve every reasonable doubt in favor of the constitutionality of

a statute. Florida League of Cities, Inc. v. Administration Com'n, 586 So.2d 397, 412 (Fla. 1st DCA 1991). An act should not be declared unconstitutional unless it is determined to be invalid beyond a reasonable doubt. Todd v. State, 643 So.2d 625, 627 (Fla. 1st DCA 1994). Single subject challenges like all constitutional challenges are governed by these principles. *Cf.* State v. Physical Therapy Rehabilitation Center of Coral Springs, Inc., 665 So.2d 1127, 1130 (Fla. 1st DCA 1996)(noting, in the context of a constitutional challenge to a statute alleging a defective title, a presumption exists in favor of the validity of the statute).

The standard of review

A standard of review is deference that an appellate court pays to the trial court's ruling. Martha S. Davis, *A Basic Guide to Standards of Judicial Review*, 33 S.D. L. REV. 468 (1988). There are three main standards of review: *de novo*, abuse of discretion and competent substantial evidence test. PHILIP J. PADOVANO, FLORIDA APPELLATE PRACTICE § 9.1 (2d ed. 1997).

The constitutionality of a statute is a question of law that an appellate court reviews *de novo*. See United States v. Cardoza, 129 F.3d 6, 10 (1st Cir. 1997); United States v. Bailey, 115 F.3d 1222, 1225 (5th Cir. 1997); United States v. Wilson, 73 F.3d 675, 678 (7th Cir.1995); United States v. Crawford, 115 F.3d 1397, 1400 (8th Cir. 1997); United States v. Michael R., 90 F.3d 340, 343 (9th Cir. 1996). An appellate court reviews the constitutionality of all

statutes, including sentencing statutes, *de novo*. United States v. Quinn, 123 F.3d 1415, 1425 (11th Cir. 1997).

Under the *de novo* standard of review, the appellate court pays no deference to the trial court's ruling; rather, the appellate court makes its own determination of the legal issue. Elder v. Holloway, 984 F.2d 991 (9th Cir. 1993)(Kozinski, J., dissenting from the denial of a suggestion for rehearing en banc), adopted by Elder v. Holloway, 510 U.S. 510, 516, 114 S.Ct. 1019, 1023, 127 L.Ed.2d 344 (1994)(holding the issue is a question of law, not one of "legal facts", which is reviewed *de novo* on appeal). An appellate court freely considers the matter anew as if no decision had been rendered below under the *de novo* standard of review. The reason for *de novo* review of legal questions is obvious enough: appellate courts are in a better position than trial courts to resolve legal questions because appellate courts are not encumbered by the "vital, but time-consuming, process of hearing evidence". Moreover, appellate courts see many legal issues repeatedly giving them a greater familiarity with these issues. Additionally, appellate courts have the advantage of sitting in panels where they can deliberate about legal issues which allows the appellate judges to discuss issues with each other issues which the trial court must decide alone. Indeed, an appellate court's principal mission is resolving questions of law and to refine, clarify and develop legal doctrines. Elder v. Holloway, 984 F.2d 991 (9th Cir. 1993)(Kozinski, J., dissenting from the denial of a suggestion for rehearing en banc), adopted by Elder v. Holloway, 510 U.S. 510,

516, 114 S.Ct. 1019, 1023, 127 L.Ed.2d 344 (1994). Thus, the standard of review is *de novo*.

Standing

The single subject provision applies only to chapter laws; Florida Statutes are not required to conform to the provision. State v. Combs, 388 So.2d 1029 (Fla. 1980). Once reenacted as a portion of the Florida Statutes, a chapter law is no longer subject to challenge on the grounds that it violates the single subject provision of Article III, § 6, of the Florida Constitution. State v. Johnson, 616 So.2d 1, 2 (Fla. 1993). The reenactment of a statute cures any infirmity or defect. State v. Carswell, 557 So.2d 183, 184 (Fla. 3d DCA 1990); Honchell v. State, 257 So.2d 889 (Fla. 1972); Alterman Transport Lines, Inc. v. State, 405 So.2d 456 (Fla. 1st DCA 1981).

In State v. Johnson, 616 So.2d 1 (Fla. 1993), the Supreme Court held that the re-enactment of the amendment cured the single-subject violation. The Court noted that the "window" period for attacking a chapter law as violative of single-subject provision runs from the effective date of law to the date of reenactment. Defendants who committed their offenses after the enactment date did not have standing to challenge the amendments. However, those defendants who committed their offenses before the date of the reenactment did have standing to challenge the amendments and were entitled to resentencing. Johnson, 616 So.2d at 4.

In Thompson v. State, 708 So.2d 315 (Fla. 2d DCA 1998), *rev. granted*, State v. Thompson, 717 So.2d 538 (Fla. 1998), the Second District held that the Gort Act, chapter 95-182, violated the single subject provision of the Florida Constitution. The Thompson Court identified the window period for challenging the Gort Act, chapter 95-182, LAWS OF FLORIDA, from October 1, 1995 until May 24, 1997. Thompson, 708 So.2d 315, n.1. According to the Second District, the "window" period opens on the effective date of the law, which was October 1, 1995 and closes on the date the Gort Act was reenacted as part of the Florida Statutes' biennial adoption which was May 24, 1997. Chapter 97-97, LAWS OF FLORIDA. Thus, according to the Thompson Court, only those defendants who committed their offenses prior to May 24, 1997 have standing to challenge the constitutionality of the Gort Act on the basis that it violates the single subject provision.

In Salter v. State, 731 So.2d 826 (Fla. 4th DCA 1999), the Fourth District identified a different window period. The Salter Court held that a defendant's standing to challenge his violent career criminal sentence ended on October 1, 1996 because the Gort Act was reenacted on that date. Chapter 96-388, LAWS OF FLORIDA. The Fourth District reasoned that when the legislature reenacted the violent career criminal section as part of chapter 96-388, without the civil provision identified in Thompson as the single subject violation, the legislature cured the single subject violation.² In

² In Thompson v. State, 708 So.2d 315 (Fla. 2d DCA 1998), *rev. granted*, State v. Thompson, 717 So.2d 538 (Fla. 1998), the Second

short, the passage of chapter 96-388 without the objectionable civil provisions addressing domestic violence injunctions cured the single subject violation found in chapter 95-182. The Fourth District in Salter certified conflict with Second District's decision in Thompson regarding the appropriate dates for the window.³

There is no dispute regarding the date the "window" period opens which is the effective date of the Gort Act, October 1, 1995. However, contrary to the Thompson Court's reasoning, the window to challenge chapter 95-182 closed not on May 24, 1997 but approximately one year earlier on October 1, 1996. While the Gort Act was reenacted in 1997 as part of the Florida Statutes' biennial

District held that the Gort Act violated the single subject provision of the Florida Constitution. The Thompson Court noted that sections one through seven of the chapter create and define violent career criminal sentencing whereas section eight through ten deal with civil remedies for domestic violence. The Court recited a brief legislative history of the Gort Act noting that sections eight through ten began as three house bills which died in committee. When the three house bills were engrafted on to the original Senate bill creating violent career criminal sentencing, the three house bills became law. The Court stated: "[i]t is in circumstances such as these that problems with the single subject rule are most likely to occur". Furthermore, the Thompson Court reasoned that the two parts have no natural or logical connection because the Gort Act embraces both criminal and civil provisions. The Court analogized the Gort Act to the cases of State v. Johnson, 616 so.2d 1 (Fla. 1993) and Bunnell v. State, 453 So. 2d 808 (Fla. 1984). The Court also expressed concern that nothing in sections two through seven addresses domestic violence and nothing in sections eight through ten addresses career criminals.

³ Salter is pending in this Court in case no. 95,663.

adoption, it was also reenacted earlier in 1996. Chapter 96-388, LAWS OF FLORIDA. This earlier reenactment, while not part of the biennial adoption, was an equivalent legislative action which closed the window for the exact same reasons the biennial adoption normally closes the window.

In Martinez v. Scanlan, 582 So.2d 1167 (Fla. 1991), this Court held that a chapter law that consisted of two separate subjects, *i.e.*, workers' compensation and international trade, violated the single subject requirement. However, prior to the Court's decision, the legislature separated the international trade and workers' compensation provisions into two distinct bills and reenacted them both. This Court held that this action by the legislature "clearly cured" the single subject objection.

Thus, the legislature can cure a single subject violation in a number of ways. The legislature can cure a single subject violation by biennial adoption or by breaking the two subjects into two separate bills and passing them as two separate chapter laws or, as in this case, by reenacting the substance of the statute without the offending disparate subject in a later chapter law.

The purpose of the single subject provision in the constitution is to prevent "logrolling". Martinez v. Scanlan, 582 So.2d 1167, 1172 (Fla. 1991); State v. Lee, 356 So.2d 276, 282 (Fla. 1978). Logrolling is where separate issues are rolled into a single initiative in order to aggregate votes or secure approval of an otherwise unpopular issue. In re Advisory Opinion to the Attorney General--Save Our Everglades, 636 So.2d 1336, 1339 (Fla. 1994).

Logrolling results in the passage of an unpopular issue simply because it is paired with a widely popular issue. Advisory Opinion to the Attorney Gen. re Fish & Wildlife Conservation Comm'n, 705 So.2d 1351, 1353 (Fla. 1998). The purposes of the provision is to prevent unpopular free riders becoming law. The provision obviously is not designed to prevent the passage of popular measures. If a Court could determine which of the issues was in fact the free rider, only the free rider should be held unconstitutional. However, courts invalidate the entire chapter because normally they cannot determine which is the popular measure and which is the free rider. *Cf. Fine v. Firestone*, 448 So.2d 984, 990 (Fla. 1984)(holding that the severability clause did not cure the violation of single subject requirement).

If two issues were originally enacted together, but later one of the issues is reenacted separately, the issue that was separately enacted cannot be said to have passed due to logrolling. It passed on its own, not because it was associated with a more popular measure. Specifically, if the Gort Act and domestic violence measure were enacted together in chapter 95-182 but subsequently the Gort Act was enacted separately without the domestic violence measures in chapter 96-388, then the Gort Act did not pass because it was associated with the domestic violence measures. While the validity of the domestic violence measures is still subject to single subject challenge on the basis of logrolling, the Gort Act is not properly challenged on the basis of logrolling. The Gort Act passed regardless of any logrolling associated with passage of

chapter 95-182. Basically, such a scenario proves either there was no logrolling in the original chapter or that the Gort Act was the popular measure, not the unpopular one.

Thus, as the Fourth District held in Salter, the window period closed on October 1, 1996 when the legislature reenacted the Gort Act. Chapter 96-388, LAWS OF FLORIDA; Chapter 97-97, LAWS OF FLORIDA. Petitioner committed his offenses on April 10, 1997, after October 1, 1996, the effective date of chapter 96-388. His offense was committed after the window closed to challenge 95-182 but before the window closed to raise a single subject challenge to chapter 96-388. Therefore, petitioner only has standing to challenge Chapter 96-388, not Chapter 95-182. He may challenge the amended version of the Gort Act but not the original version of the Gort Act.⁴

Merits

The single subject provision, Article III, Section 6 of the Florida Constitution provides:

"Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title."

⁴ The State adopts its brief in Thompson, case no. 92,831, regarding the single subject challenge to chapter 95-182 if this Court rejects this standing argument. Oral argument were held November 1998 and supplemental briefs addressing the window period issue were filed in August 1999 in the Thompson case. Thompson v. State, 708 So.2d 315 (Fla. 2d DCA 1998), *rev. granted*, State v. Thompson, 717 So.2d 538 (Fla. 1998).

However, an act may be as broad as the legislature chooses provided the matters included in the act have a natural or logical connection. Chenoweth v. Kemp, 396 So.2d 1122 (Fla. 1981); Board of Pub. Instruction v. Doran, 224 So.2d 693, 699 (Fla. 1969). Broad and comprehensive legislative enactments are not in violation of the single subject provision. See Smith v. Department of Ins., 507 So.2d 1080 (Fla. 1987). Moreover, the single subject requirement is satisfied if a "reasonable explanation exists as to why the legislature chose to join the two subjects within the same legislative act. Johnson v. State, 616 So.2d 1, 4 (Fla. 1993). The test to determine whether legislation meets the single subject provision is based on common sense. Smith, 507 So.2d at 1087.

The Florida Supreme Court has accorded great deference to the legislature in the single subject area and the Court has held that the legislature has wide latitude in the enactment of acts. State v. Lee, 356 So.2d 276 (Fla. 1978); State v. Leavins, 599 So.2d 1326, 1334 (Fla. 1st DCA 1992). Examples abound where the Florida Supreme Court has held that Acts covering a broad range of issues does not violate the single subject provision. The single subject provision is not violated when an Act provides for the decriminalization of traffic infractions and also creates a criminal penalty for willful refusal to sign a traffic citation, State v. McDonald, 357 So.2d 405 (Fla. 1978); the provision is not violated where an Act covers both automobile insurance and tort law, State v. Lee, 356 So.2d 276 (Fla.1978); nor is the provision violated where an Act covers a broad range of topics dealing with

medical malpractice and insurance because tort litigation and insurance reform have a natural or logical connection, Chenoweth v. Kemp, 396 So.2d 1122 (Fla. 1981), Smith v. Department of Insurance, 507 So.2d 1080 (Fla. 1987); nor is the provision violated where an Act establishes a tax on services and includes an allocation scheme for the use of the tax revenues. In re Advisory Opinion to the Governor, 509 So.2d 292 (Fla. 1987). Finally, the Florida Supreme Court has found that an act which deals with (1) comprehensive criminal regulations, (2) money laundering, and (3) safe neighborhoods is valid since each of these areas bears a logical relationship to the single subject of controlling crime. Burch v. State, 558 So.2d 1 (Fla. 1990).

THE SECTIONS OF CHAPTER 96-388

Chapter 96-388 is entitled "An act relating to public safety." There are seventy-four sections in Chapter 96-388. All sections of the Act concern methods in which to increase public safety from criminal activity. Section one establishes an eight-year revision cycle for the criminal code. This section is clearly criminal in nature. Section two amends the "State Comprehensive Plan" for the criminal justice system. The goals enumerated in this plan include: a) the protection of the public by preventing, discouraging, and punishing criminal behavior; b) lowering the recidivism rate; c) maintenance of safe and secure prisons; d) combating organized crime; etc.

Sections three through sixteen are all related to the information systems for public safety agencies. These sections concern the "Career criminal and Juvenile Justice Information Systems Council". The purpose of this council is to facilitate the identification, standardization, sharing and coordination of criminal and juvenile justice data. These sections promote the goal of protection of the public. These sections facilitate the sharing of information amongst various criminal and juvenile justice agencies. These sections are obviously related to the subject of protecting the public from criminal activity.

Sections seventeen through twenty-one relate to the maintenance of juvenile criminal records. These sections have amended the statutes which govern the procedures relating to fingerprinting and photographing a child who has committed an offense, the circumstances under which a juvenile's criminal history information may be obtained from the Department of Law Enforcement, the sharing of information on a juvenile who has been arrested, the merging of records for a minor who has been adjudicated as an adult for a forcible felony. These sections promote the protection of the public because they encourage the sharing and dissemination of information concerning minors who have committed crimes. Such information will help to control and prevent recidivism amongst juvenile offenders.

Section 22 revised the language relating to sentence guidelines scoresheets. Sections 50 through 53 also include revisions to the sentencing guidelines regarding the scoring of offenses for victim

injury, severity of offenses, etc. These sections relate to the common theme of the act, which is public safety from criminal activity, by providing guidance for the preparation of sentencing guideline scoresheets.

Sections 23 repeals some of the duties of the Juvenile Justice Advisory Board. Section 24 concerns the Justice Administrative Commission reporting its functions to the legislature. Section 25 allows the insurance commissioner to contract with the Justice Administrative Commission for the criminal prosecution of Worker's Compensation fraud. Such action relates to the protection of the public from criminal activity.

Sections 26 through 28 repeals certain statutes. Statutes which were repealed included: (1) the Council on Organized Crime; (2) the "Crime Prevention Information" and the "Risk Assessment Coordinating Council" and the (3) Bail Bond Advisory Council. Section 29 amends a statute to delete references to the Bail Bond Advisory Council. Section 30 repeals various statutes dealing with the drug punishment program and STOP offenders. Section 31 repeals a statute dealing with the negligent treatment of children.

Section 32 relates to the Department of Law Enforcement. Law enforcement is synonymous with protecting the public from criminal activity. Sections 33 through 43 relate to the Street Gang Prevention Act. These sections are geared toward "public safety" to protect the public from organized, street gangs. In fact, the purpose of this section is to ensure that every person be "secure and protected from fear, intimidation, and physical harm caused by

he activities of street gangs and their members." Facilitated by Sections 3 through 21, these provisions also include considerations of a street gang member's prior record and criminal history, and therefore the recidivism of those who have committed crimes in the past.

Sections 44 through 46 redefine the violent career criminal, habitual offender and habitual felony offender. These provisions relate to the protection of the public as it concerns recidivism of violent criminals. Sections 47 through 49 expand the definitions of burglary, trespass and theft, to the definition of burglary, trespass and theft and therefore, relate to public safety for criminal activity. Section 54 amends the trafficking statute. Again, this section falls within the umbrella of protection of the public from criminal activity including illegal drugs.

Sections 55 and 57 make certain convicted felons ineligible for early release. Here, the legislature sought to protect citizens from certain types of criminals, thereby, abolishing these criminals' ability to obtain early release from prison. Section 56 relates to the unlawful taking of a police officer's weapon. Section 58 makes grammatical corrections to the restitution statute. Restitution directly relates to protection of the public, as victims of crimes have the right to obtain compensation for their injuries and losses. Section 59 amends the gain time statute. This statute relates to the ability of prisoners to receive gain time, and therefore an earlier release. As such, the

section relates to the protection of the public, as it concerns a prisoner's ability to obtain release back into society.

Sections 60 through 67 concerns the Jimmy Ryce Act, which relates to sexual predators, etc. This act concerns protection of the public as it relates to protecting the public from sexual predators, etc. Section 68 relates to the security and arrest surrounding injured apprehendees. Sections 69 through 71 concern prosecution for computer pornography. These sections of the act obviously falls within the umbrella of protection of the public from criminal activity. Section 72 concerns the loss of privileges for persons incarcerated who loses civil actions arising from the commission of a forcible felony. Section 73 concerns the effective date of the bill relating to security alarms. Finally, Section 74 contains the effective date of the act.

All the sections of this act concern one subject: the protection of the public from crime. Therefore, there is a natural and logical connection among the sections of this act and it does not violate the single subject provision.

LEGISLATIVE HISTORY

Chapter 96-388 was originally Senate Bill 156. The legislative history of the Bill explains that the majority of the sections of the final bill were originally other bills. House Final Bill Analysis p.5 (August 9, 1996). The House Final Bill Analysis identifies the source of each section of Senate Bill 156 by its original source and explains the effect of the section. The

summary of the bill, the effects of proposed changes and the section by section analysis all highlight the single subject of protecting the public from criminal activity.

The only remotely "civil" aspect of the bill is section 73 which deals with security alarms. However, section 73 only establishes an effective date of a bill that had already passed. The substance of HB 793 was already enacted. Thus, this section, section 73, is an innocuous, technical amendment to legislation that already independently passed and cannot, by definition, present any logrolling problems. This is housecleaning, not logrolling.

CASELAW

In Burch v. State, 558 So.2d 1 (Fla. 1990), the Florida Supreme Court held that the Crime Prevention and Control Act did not violate the single subject provision of the Florida Constitution. The Act dealt with (1) comprehensive criminal regulations, (2) money laundering, (3) drug abuse education, (4) forfeiture of conveyances, (5) crime prevention studies, and (6) safe neighborhoods. The Court held that there was a logical and natural connection among these subjects because all of the parts were related to its overall objective of crime control. The Court noted that the sections were intended to control crime, whether by providing for imprisonment or through taking away the profits of crime. Here, as in Burch, there is a logical and natural connection among all the sections of chapter 96-388 because all

sections relate to the single subject which is the protection of the public from criminal activity.

Petitioner's reliance on Thompson v. State, 708 So.2d 315 (Fla. 2d DCA 1998), *rev. granted*, State v. Thompson, 717 So.2d 538 (Fla. 1998), is misplaced. In Thompson, the Second District held that the Gort Act violated the single subject provision of the Florida Constitution. The Thompson Court noted that sections one through seven of the chapter create and define violent career criminal sentencing whereas section eight through ten deal with civil remedies for domestic violence. The Court recited a brief legislative history of the Gort Act noting that sections eight through ten began as three house bills which died in committee. When the three house bills were engrafted on to the original Senate bill creating violent career criminal sentencing, the three house bills became law. The Court stated: "[i]t is in circumstances such as these that problems with the single subject rule are most likely to occur". Furthermore, the Thompson Court reasoned that the two parts have no natural or logical connection because the Gort Act embraces both criminal and civil provisions. The Court analogized the Gort Act to the cases of State v. Johnson, 616 So.2d 1 (Fla. 1993) and Bunnell v. State, 453 So. 2d 808 (Fla. 1984). The Court also expressed concern that nothing in sections two through seven addresses domestic violence and nothing in sections eight through ten addresses career criminals. Here, unlike Thompson, there are no substantive civil matter addressed in chapter 96-388. Thus, chapter 96-388 deals solely with criminal matters.

Petitioner's reliance on Bunnell v. State, 453 So. 2d 808 (Fla. 1984), is equally misplaced. The Bunnell Court held that the chapter law which contained one section creating the crime of obstruction of justice by giving false information had no cogent relationship with other sections which made amendments concerning membership of the Florida Council on Career criminal Justice. The opinion contains no reasoning just the conclusion that the sections had no cogent relationship. The Thompson Court characterized these amendments as noncriminal and dealing with an executive branch function.

Petitioner's reliance on State v. Johnson, 616 So.2d 1 (Fla. 1993), is also misplaced. In Johnson, 616 So.2d 1 (Fla. 1993), this Court held that a chapter law violated the single subject provision because it addressed two subjects: "the first being the habitual offender statute, and the second being the licensing of private investigators and their authority to repossess personal property." Johnson, 616 So. 2d at 4. The court stated that the two matters had absolutely no cogent connection. Sentencing for repeat offenders and licensing private investigator have no common core.

Johnson, like Thompson, but unlike chapter 96-388, dealt with both civil and criminal matters. The entire focus of chapter 96-388 is the protection of the public from criminal activity. There are no substantive civil matters contained in chapter 96-388. Thus, chapter 96-388 does not violate the single subject requirement of the Florida Constitution and therefore, petitioner's sentence is constitutional.

CONCLUSION

The State respectfully submits the decision of the District Court of Appeal, in Robinson v. State, 738 So. 2d 1019 (Fla. 1st DCA 1999), finding no single subject violation should be approved and petitioner's sentence should be affirmed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing RESPONDENT'S ANSWER BRIEF ON THE MERITS has been furnished by U.S. Mail to Robert Friedman, Assistant Public Defender, Leon County Courthouse, Suite 401, 301 South Monroe Street, Tallahassee, Florida 32301, this _____ day of November, 1999.

Charmaine M. Millsaps
Attorney for the State of Florida

IN THE SUPREME COURT OF FLORIDA

LARRY ROBINSON,

Petitioner,

CASE NO. 96,481

v.

STATE OF FLORIDA,

Respondent.

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INDEX TO APPENDIX

Exhibit A - House Final Bill Analysis (August 9, 1996)

Exhibit B - Senate Analysis

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