

# Supreme Court of Florida

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No. SC96573

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**PAUL PHILLIP FOX,**  
Petitioner,

vs.

**STATE OF FLORIDA,**  
Respondent.

[May 18, 2000]

PER CURIAM.

We have for review Fox v. State, 743 So. 2d 74 (Fla. 1st DCA 1999), in which the First District Court of Appeal certified conflict with the Second District Court of Appeal's decision in Thompson v. State, 708 So. 2d 315 (Fla. 2d DCA 1998). We have jurisdiction. See Art. V, § 3(b)(4), Fla. Const. Based on our decision in State v. Thompson, 750 So. 2d 643 (Fla. 1999), in which we held unconstitutional chapter 95-182, Laws of Florida, as violative of the single subject rule, we quash the decision below and remand this cause for resentencing in accordance with the valid laws in

effect on May 15, 1997, the date on which Fox committed the underlying offenses in this case.<sup>1</sup> See Thompson, 750 So. 2d at 649 (remanding for resentencing in accordance with the valid laws in effect at the time the defendant committed her offenses).

It is so ordered.

HARDING, C.J., and SHAW, ANSTEAD, PARIENTE, LEWIS and QUINCE, JJ., concur.

WELLS, J., dissents.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND IF FILED, DETERMINED.

Application for Review of the Decision of the District Court of Appeal - Certified Direct Conflict of Decisions

First District - Case No. 1D98-4111

(Bradford County)

Nancy A. Daniels, Public Defender, and Robert Friedman, Assistant Public Defender, Second Judicial Circuit, Tallahassee, Florida,

for Petitioner

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<sup>1</sup> Based on our decision in Salters v. State, No. SC95663 (Fla. May 11, 2000), we determine that Fox has standing to challenge chapter 95-182, Laws of Florida, on single subject rule grounds. Further, even though Fox failed to raise a single subject rule challenge in the trial court, we find that such challenge may be properly addressed in this case for the first time on appeal. Cf. Heggs v. State, 25 Fla. L. Weekly S137, S138, S140 n. 4 (Fla. Feb. 17, 2000); Nelson v. State, 748 So. 2d 237, 241-42 (Fla. 1999), cert. denied, 120 S. Ct. 950 (2000); State v. Johnson, 616 So. 2d 1, 3-4 (Fla. 1993). Finally, we decline to address the additional issue raised by Fox--which is clearly outside the scope of the certified conflict issue--concerning the trial court's refusal to instruct the jury on the justifiable use of non-deadly force.

Robert A. Butterworth, Attorney General, James W. Rogers, Tallahassee Bureau Chief, Criminal Appeals, and Sherri Tolar Rollison, Assistant Attorney General, Tallahassee, Florida,

for Respondent