

ORIGINAL

IN THE SUPREME COURT OF FLORIDA

FILED
DEBBIE CAUSSEAU
OCT 22 1999
CLERK, SUPREME COURT
BY

ARIC A. WILLIAMS,
Petitioner,

v.

CASE NO. 96,672

STATE OF FLORIDA,
Respondent.

ON DISCRETIONARY REVIEW FROM
THE FIFTH DISTRICT COURT OF APPEAL

JURISDICTIONAL BRIEF OF RESPONDENT

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CERTIFICATE OF FONT AND TYPE SIZE

The undersigned counsel certifies that this brief was typed using 12 point Courier, a font that is not proportionately spaced.

STATEMENT OF FACTS

Williams was convicted of resisting arrest with violence and battery on a law enforcement officer; he was then sentenced as a prison releasee reoffender to 5 years incarceration. On appeal, the district court rejected his claim that the Prison Releasee Reoffender Act is unconstitutional. Williams v. State, 24 Fla. L. Wkly. D2015 (Fla. 5th DCA Aug. 27, 1999). In so holding, the district court found this case to be controlled by its opinion in Speed v State, 732 So. 2d 17 (Fla. 5th DCA), rev. granted, case # 95,706 (Fla. Sept. 16, 1999).

SUMMARY OF ARGUMENT

This Court does have the discretion to accept jurisdiction of this case. As a practical matter, however, it may be more prudent to hold this petition for review in abeyance until this same issue is resolved in other pending cases.

ARGUMENT

THIS COURT DOES HAVE THE DISCRETION
TO ACCEPT JURISDICTION OF THIS CASE.

This Court has jurisdiction under article V, section (3) (b) (3) of the Florida Constitution where a decision of a district court "expressly and directly conflicts" with a decision of this Court or another district court. Where the district court's decision is a per curiam opinion which cites as controlling law a decision that is either pending review in or has been reversed by this Court, this Court has the discretion to accept jurisdiction. Jollie v. State, 405 So. 2d 418, 420 (Fla. 1981).

The State acknowledges that this Court has the authority to accept jurisdiction of this case in light of the district court's citation to Speed v State, 732 So. 2d 17 (Fla. 5th DCA), rev. granted, case # 95,706 (Fla. Sept. 16, 1999).

However, the State notes that this same issue -- the constitutionality of the Prison Releasee Reoffender Act -- is presently pending review in numerous other cases in this Court. See, e.g., State, case # 94,996. Accordingly, the State submits that the interests of judicial economy, as well as fairness to this defendant, can best be served by holding this petition for review in abeyance pending resolution of this issue in the other cases. Numerous cases involving this issue will be ripe for review by this Court in the near future, and little purpose would be served by full briefing in all of them.

CONCLUSION

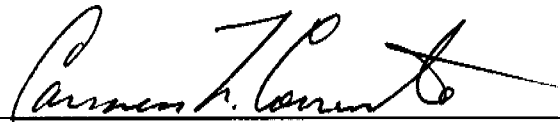
Based on the arguments and authorities presented herein, respondent respectfully acknowledges that this Court does have the discretion to accept jurisdiction of this case.

Respectfully submitted,

ROBERT A. BUTTERWORTH
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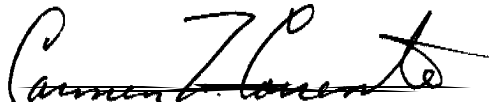


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above Jurisdictional Brief has been furnished by hand delivery to Lyle Hitchens, Assistant Public Defender, 112 Orange Avenue, Suite A, Daytona Beach, Florida 32114, this 21st day of October, 1999.


Carmen F. Corrente
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Assistant Attorney General

99-255
Lyle

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

JULY TERM 1999

ARIC A. WILLIAMS,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

NOT FINAL UNTIL THE TIME EXPIRES
TO FILE REHEARING MOTION, AND,
IF FILED, DISPOSED OF.

CASE NO. 99-362

RECEIVED

Opinion filed August 27, 1999

AUS 27 1999

Appeal from the Circuit Court
for Seminole County,
Alan A. Dickey, Judge.

PUBLIC DEFENDER'S OFFICE
7th CIR. APP. DIV.

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Daytona Beach, for Appellee.

PER CURIAM.

AFFIRMED on the authority of ~~Speed v. State~~, 732 So. 2d 17 (Fla. 5th DCA 1999)

DAUKSCH, GOSHORN and THOMPSON, JJ., concur.