

**IN THE SUPREME COURT OF FLORIDA**

CASE NO. 96,990

**CALVIN DONNELL HUNT,**

Petitioner,

-vs-

**THE STATE OF FLORIDA,**

Respondent.

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**ON PETITION FOR DISCRETIONARY REVIEW**

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**BRIEF OF RESPONDENT ON THE MERITS**

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ARGUMENT

    IN LIGHT OF THIS COURT’S OPINION IN STATE V. THOMPSON,  
    NO. 92,831 (FLA. DECEMBER 22, 1999), THE DEFENDANT’S CASE  
    MUST BE REMANDED FOR RESENTENCING IN ACCORDANCE WITH THE  
    VALID LAW IN EFFECT ON MAY 2, 1996, THE DATE ON WHICH  
    HUNT COMMITTED HIS OFFENSE. . . . . 5

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PRELIMINARY STATEMENT

The Petitioner, CALVIN DONNELL HUNT, was the Defendant in the trial court and the Appellant in the Third District Court of Appeal (hereafter, "Third District"). The State of Florida was the prosecution in the trial court and the Appellee in the Third District. In this brief, the parties will be referred to as they stood in the trial court. The symbols "R." and "T." will refer to the record on appeal and the transcripts of the proceedings, respectively. The symbol "ST." will designate the supplemental transcript of the sentencing hearing on July 10, 1998 taken from the record on appeal from the Third District Court. Lastly, the symbol "App." will designate the Appendix attached to Petitioner's brief.

CERTIFICATE OF FONT AND TYPE SIZE

The undersigned has utilized 12 point courier in preparing this brief.

STATEMENT OF THE CASE AND FACTS

The State accepts the Defendant's statement of the case and facts as a substantially correct and non-argumentative recitation of the relevant facts and procedural history of this case.

POINT INVOLVED ON APPEAL

WHETHER IN LIGHT OF THIS COURT'S OPINION IN STATE V. THOMPSON, NO. 92,831 (FLA. DECEMBER 22, 1999), THE DEFENDANT'S CASE MUST BE REMANDED FOR RESENTENCING IN ACCORDANCE WITH THE VALID LAW IN EFFECT ON MAY 2, 1996, THE DATE ON WHICH HUNT COMMITTED HIS OFFENSE.

### SUMMARY OF THE ARGUMENT

In light of this Court's recent decision in State v. Thompson, No. 92,831 (Fla. December 22, 1999), the Defendant's case must be remanded for resentencing in accordance with the valid law in effect on May 2, 1996, the date on which Hunt committed his offense.

### ARGUMENT

IN LIGHT OF THIS COURT'S OPINION IN STATE V. THOMPSON, NO. 92,831 (FLA. DECEMBER 22, 1999), THE DEFENDANT'S CASE MUST BE REMANDED FOR RESENTENCING IN ACCORDANCE WITH THE VALID LAW IN EFFECT ON MAY 2, 1996, THE DATE ON WHICH HUNT COMMITTED HIS OFFENSE.

In the instant case, the trial court sentenced the Defendant as a violent career criminal for offenses that he committed on May 2, 1996. (R. 164, 176-181). Now, the Defendant is arguing, as he argued in the Third District, that his violent career criminal sentence should be vacated because §775.084(4)(c), Fla. Stat. (1995) is unconstitutional on the ground that the session law that enacted it, Chapter 95-182, Laws of Florida, violated the single subject provision of the Florida Constitution.

As noted by the Defendant in his brief, the Third District has previously held that chapter 95-182 did not violate the single subject requirement of the Florida Constitution. Higgs v. State, 695 So. 2d 872 (Fla. 3d DCA 1997). On the other hand, the Second



District has held to the contrary. Thompson v. State, 708 So. 2d 315 (Fla. 2d DCA 1998), rev. granted, 717 So. 2d 538 (Fla. 1998). Hence, although the Third District affirmed in the instant case on the authority of Higgs, in light of Thompson, the Third District also certified conflict with Thompson.

The issue in the instant case is the exact issue recently resolved by this Court in Thompson. In light of this Court's recent decision in State v. Thompson, No.92,831 (Fla. December 22, 1999), the State must agree that Defendant's case be remanded for resentencing in accordance with the valid law in effect on May 2, 1996, the date on which Hunt committed his offense.

#### CONCLUSION

Based upon the foregoing, the State submits that case must be remanded for resentencing in accordance with the valid law in effect on May 2, 1996, the date on which Hunt committed his offense. This Court should therefore reverse and remand for resentencing.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Brief of Respondent was mailed this \_\_\_\_ day of December, 1999, to Marti Rothenberg, Assistant Public Defender, 1320 N.W. 14th Street, Miami, Florida, 33125.

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