

IN THE SUPREME COURT OF FLORIDA

JASON ALEXANDER YEGGE, :

Petitioner, :

vs. : Case No.

STATE OF FLORIDA, :

Respondent. :

DISCRETIONARY REVIEW OF DECISION OF THE
DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

BRIEF OF PETITIONER ON JURISDICTION

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STATEMENT OF THE CASE AND FACTS

In 2003, Jason Alexander Yegge was sentenced as a youthful offender under Florida's Youthful Offender Law, Chapter 958. In 2005, Yegge violated his youthful offender probation by committing a new law violation. Sentencing youthful offenders, who violate probation by committing new law violations, is governed by Fla. Stat. § 958.14(2002):

A violation or alleged violation of probation or the terms of a community control program shall subject the youthful offender to the provisions of s. 948.06(1). However, no youthful offender shall be committed to the custody of the department for a substantive violation for a period longer than the maximum sentence for the offense for which he or she was found guilty, with credit for time served while incarcerated¹

The trial judge imposed a ten-year mandatory minimum term pursuant to section 775.087, Florida Statutes (2002). On appeal to the Second District Court, Yegge challenged the legality of the enhanced penalty (the minimum mandatory term), not the length of his prison term. The Second District, in a split decision, upheld the imposed and enhanced minimum-mandatory term. The Second District expressly certified conflict with the Fourth District, in

¹ The language authorizing a youthful offender to be sentenced up to the maximum sentence for a substantive violation was added in 1990. See Ch. 90-208, § 19, at 1161, Laws of Fla. Since 1997, this law has been amended twice since 1997, but only cosmetically. See Laws 2004, c. 2004-373, § 38, eff. July

Blacker v. State, 49 So. 3d 785 (Fla. 4th DCA 2010). *Yegge v. State*, 2D12-4193 (Fla. 2d DCA April 15, 2015) (Appendix).

ARGUMENT

The conflict between the Second District and the Fourth and Fifth Districts, as well as conflict with the reasoning of the Florida Supreme Court, on the legislative intent of the youthful offender sentencing provision, under section 958.14, in authorizing adult sanctions that include minimum mandatory and other enhanced penalties on youthful offenders who commit a substantive violation of probation should be resolved by this Court.

Since the Second District certified conflict, with *Blacker v. State*, 49 So. 3d 785 (Fla. 4th DCA 2010), this court has jurisdiction to resolve the inter-district conflict. Fla. R. App. P. 9.030(2)(A)(iv) (2014) ("The discretionary jurisdiction of the supreme court may be sought to review (A) decisions of district courts of appeal that . . . (iv) expressly and directly conflict with a decision of another district court of appeal or of the supreme court on the same question of law.")

There is conflict between the Second, and the Fourth and Fifth Districts on whether Florida Statute section 958.14 gives trial judges discretion to impose minimum mandatory and enhanced classification penalties on youthful offenders who commit substantive violations of probation. The Second District and one decision by the Fourth District interpret section 958.14 as allowing trial judges discretion to impose enhanced penalties on

(..continued)

1, 2004 and Laws 2007, c. 2007-2, § 8, eff. March 12, 2007.

violating youthful-offender probationers, *Yegge v. State*. 2D12-4193 and *Goldwire v. State*, 73 So. 3d 844 (Fla. 4th DCA 2011), while the Fifth District and an earlier opinion by the Fourth District (*Blacker*) disapproved that interpretation, holding that trial judges are precluded from imposing enhanced penalties on youthful offenders who commit substantive violations of probation, *Blacker v. State*, 49 So. 3d 785 (Fla. 4th DCA 2010) and *Christian v. State*, 84 So. 3d 437 (Fla. 5th DCA 2012), *rev. denied*, 134 So. 3d 446 (Fla. 2014).

Additionally, the reasoning in *Yegge* and *Goldwire* conflict with the reasoning of this Court's decision, in *State v. Arnette*, 604 So. 2d 482 (Fla. 1992), that interpreted an earlier version of the statute and observed that the legislature intended that youthful offenders be treated differently than adults, and "[u]nless the legislature clearly states otherwise, youthful offenders maintain youthful offender status even when they violate a condition of community control." The narrow question and conflict here is whether the legislature "clearly stated" that youthful offenders, who commit substantive violations of probation, no longer benefit from youthful offender sentencing restrictions, but may be subjected to minimum mandatory and enhanced classification sentencing.

CONCLUSION

The inter-district conflict on the interpretation of section 958.14 as authorizing, or not, trial judge's discretion to impose

minimum mandatory and enhanced classification sentencing sanctions on youthful offenders who commit substantive violations of probation should be resolved by this Court.

APPENDIX

PAGE NO.

1. *Yegge v. State*, 2D12-4193 (April 15, 2015)

1-18

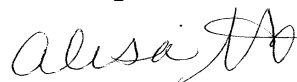
CERTIFICATE OF SERVICE

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Respectfully submitted,



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