IN THE SUPREME COURT OF FLORIDA

COREY JAMAINE DOZIER,

Petitioner,

v.

CASE NO. SC15-2092
DCA CASE NO. 1D15-1427

STATE OF FLORIDA,

Respondent.

ON DISCRETIONARY REVIEW FROM THE FIRST DISTRICT COURT OF APPEAL

JURISDICTIONAL BRIEF OF PETITIONER

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PRELIMINARY STATEMENT

Corey Jamaine Dozier was the defendant below in both the First District Court of Appeal and in the Circuit Court of the Fourth Judicial Circuit in and for Duval County. Mr. Dozier will be referred to in this brief as "Petitioner" or by his proper name. Respondent, the State of Florida, was the Appellee and prosecution below, and will be referred to herein as "Respondent" or "State."

INTRODUCTION AND JURISDICTIONAL STATEMENT

Petitioner filed a Petition for Writ of Prohibition with the First District Court of Appeal on April 26, 2015. The First District, after conducting oral arguments, entered a written opinion denying Petitioner relief on August 21, 2015. In its opinion and denial of rehearing, the First District employed a standard that clearly conflicts with the standard articulated by this Court, as well as by the Second and Fifth Districts. The Court below so narrowly construed the concept of substantial compliance that it created a strict compliance standard, never before followed in this state. The below court's holding also ignored this Court's determination that substantial compliance can be met with proof of negligence on the part of the receiving state.

The Court below affirmed the trial court's denial of Petitioner's Motions to Dismiss based on violations of speedy trial

rights as articulated by the IADA. The Court found a lack of actual notice upon the prosecutor to be controlling despite the negligence of sending state and receiving state authorities and through no fault of Petitioner. Dozier v. State, 175 So.3d 322 (Fla. 1st DCA 2015). The Court's narrow construction of the IADA created a strict compliance standard in conflict with the standard held applicable by this Court and the Second and Fifth Districts.

This holding, with respect to the requirements of the IADA and 941.45, Florida Statutes, expressly and directly conflicts with the Second District in State v. Roberts, 427 So.2d 787 (Fla. 2d DCA 1983) (holding that Florida is a substantial compliance state rather than a strict compliance state, and that the IADA should be liberally construed to effectuate its purpose.) Further, the First District's opinion expressly and directly conflicts with the Fifth District in Cox v. State, 389 So.2d 1028 (Fla. 5th DCA 1980). The Cox Court found that the failure of a Defendant to send a copy of his letter demanding speedy trial directly to the prosecutor and defendant's omission of some of the requirements of 941.45(3)(a), did not allow the state to hide behind the technical requirements of the rule. Cox further held that prosecution should have been barred for a violation of speedy trial rights.

Lastly, the district court's holding expressly and directly conflicts with this Court's holding in Torres-Arboledo v. State, 524 So.2d 403 (1988). This Court held in Torres-Arboledo, that

substantial compliance can be met in one of two ways: 1)actual notice or 2)"a clear failure on the part of sending authorities to carry out their duties under the act." Id. At 413. Such failure existed in Petitioner's case, thus creating an express and direct conflict with this Court.

The Supreme Court of Florida has discretionary jurisdiction to review a decision of a district court of appeal that expressly and directly conflicts with a decision of the Supreme Court or another district court of appeal on the same point of law. Art. V, §3(b)(3), Fla. Const.; Fla. R. App. P. 9.030(a)(2)(A)(iv).

STATEMENT OF THE CASE AND FACTS

The following testimony and facts are set forth in the district court's opinion, Dozier v. State, 175 So.3d 322 (Fla. 1st DCA 2015),at 323-324. The Petitioner was arrested on September 11, 2011, in Dorchester County, South Carolina, on charges of kidnapping, carjacking, and armed robbery. On the same date, a felony warrant issued in Duval County, Florida, for charges of grand theft auto and attempted murder. On April 13, 2012, the Petitioner entered a guilty plea to the South Carolina charges, and was received into the custody of Ridgeland Correctional prison. On the same date, the Jacksonville Sheriff's Office provided the Dorchester County Sheriff's Office with a detainer based on a sworn arrest affidavit and warrant, requesting a hold on the petitioner for the Florida charges.

The Petitioner mailed a handwritten letter on June 28, 2012, to the Jacksonville Sheriff's Office. In that letter, the Petitioner noted that he had charges pending in Duval County, and expressed that he was "serious about getting them taken care of as soon as possible." The letter advised that the Petitioner was at that time in the custody of the South Carolina Department of Corrections, and stated that the Petitioner was being held at Ridgeland Correctional Institution. The Petitioner identified the Florida detectives who came to interview him on September 11, 2011. He requested repeatedly that the Duval County charges be resolved as soon as possible. On July 3, 2012, the Jacksonville Sheriff's Office responded with a letter stating that "[t]he Records Section of the Jacksonville Sheriff's Office is unable to provide you with the extradition processing information you have requested. The Correctional facility you are currently in should be able to assist you in contacting the appropriate section for your inquiries."

The Petitioner then submitted an inmate request directed to the Warden at Ridgeland Correctional Institution in South Carolina on October 11, 2012, which indicated that it was the Petitioner's "formal request for your assistance in reaching the final resolution" of the Florida charges, and indicated that the request was "being made pursuant to the interstate agreement for detainers" codified in the South Carolina Code of Laws at section 17-11-30, Article III. The request bore a handwritten note under the

"Disposition by Staff Member" section which read, "Please process for IAD. He has detainers for the State of Florida." The South Carolina correctional officers did not appropriately forward this request. After apparently receiving no response to the October 11, 2012, inmate request, the petitioner filled out another inmate request on January 7, 2013, also directed to the Warden at Ridgeland Correctional Institution. The second request referred back to the October 11, 2012, request, and again indicated that it was the petitioner's formal request for disposition of the Duval County charges per the IADA. The "Disposition by Staff Member" section on this second request read, "INMATE DOZIER: Your request is being handled by Classification." Neither the October 11, 2012, nor the January 7, 2013, request was served on the Jacksonville Sheriff's Office, the Duval County Circuit Court, or the Fourth Circuit State Attorney's Office.

The Petitioner then attempted to file a pro se motion to dismiss the Duval County charges per the IADA on August 29, 2013. This was a pro se pleading filed with the Duval Clerk of Court and was directed to the "chief judge" and "solicitor". It contained identifying information of petitioner to include his corrections number, facility, sentence he was serving, date of birth, last known address in Jacksonville, and the Detectives' names who came to visit him while he was in the custody of the Dorchester County Sheriff's Office.

The State obtained a three-count indictment against the petitioner on November 1, 2013, for first-degree murder, attempted first-degree murder, and theft of a motor vehicle. Counsel was appointed to represent the petitioner on the Duval County charges, and counsel filed a renewed motion to dismiss per the IADA on March 27, 2014. The trial court denied both motions to dismiss, finding that the first motion was procedurally barred because it was filed before the indictment, and there were accordingly no charges to dismiss at the time the first pro se motion to dismiss was filed. As to the second motion to dismiss, filed by counsel, the court found that the indictment was filed on November 1, 2013, and the defendant was not arrested until January 15, 2014 - the day he arrived in Duval County on the Florida charges. The court found that the Petitioner's speedy trial rights attached on the date of the indictment, November 1, 2013, and the Petitioner was therefore required to be brought to trial on or before April 25, 2014. That date had not yet passed when the order denying the motion to dismiss was rendered on April 8, 2014, and the motion was accordingly denied. Id. at 324.

On April 26, 2015 Defendant filed a Petition for Writ of Prohibition with the First District Court of Appeal. Oral Arguments were held on July 29, 2015. The First District entered an Order denying Petitioner's requested relief on August 21, 2015 and a subsequent Order denying Petitioner's Motion for Rehearing on

October 13, 2015. Petitioner timely filed a Notice of Intent to Invoke Discretionary Jurisdiction on November 12, 2015.

SUMMARY OF THE ARGUMENT

This Court should accept jurisdiction pursuant to rule 9.030(a)(2)(A)(iv), Florida Rules of Appellate Procedure. The First District's holding creates a standard that is irreconcilable with this Court's decision in Torres-Arboledo v. State, 524 So.2d 403 (1988), the Second District's decision in State v. Roberts, 427 So.2d 787 (Fla.2d DCA 1983), holding that Florida is a substantial compliance state, and the Fifth District's decision in Cox v. State, 389 So.2d 1028 (Fla. 5th DCA 1980). The district court's opinion expressly and directly conflicts with a previous decision of this Court and of other district courts.

ARGUMENT

THE DISTRICT COURT'S DECISION IN THIS CASE EXPRESSLY AND DIRECTLY CONFLICTS WITH THIS COURT'S DECISION IN *TORRES-ARBOLEDO V. STATE*, 524 So.2d 403 (1988), THE FIFTH DISTRICT'S DECISION IN *COX V. STATE*, 389 SO.2D 1028 (FLA. 5TH DCA 1980), AND THE SECOND DISTRICT'S DECISION IN *STATE V. ROBERTS*, 427 SO.2D 787 (FLA. 2D DCA 1983)

In Torres-Arboledo v. State, 524 So.2d 403 (1988), this Court held that Florida is a substantial compliance state and where "a prisoner makes a good faith effort to bring himself within the Agreement's purview, and *omits nothing essential to the Agreement's operation*, then his failure of strict compliance will not deprive

him of its benefits." Id at 413. This Court further held that substantial compliance will be found in one of two circumstances: 1) actual notice to the receiving authorities or 2) "a clear failure by the sending authorities to carry out their obligations under the agreement." Id.

The district court's opinion in this case ignores the holding of Torres-Arboledo. The district court acknowledged the negligence on the part of South Carolina sending state officials in failing to forward or act upon petitioner's two written requests to the warden, seeking to invoke the protections of the IADA, but determined petitioner was not entitled to relief because of "none of the IADA requests were served on the prosecuting authority". Dozier v. State, 175 So.3d 322 (Fla. 1st DCA 2015), at 327. The district court further determined that in such circumstances, petitioner failed to demonstrate substantial compliance, ignoring the two circumstances laid forth by this Court in which substantial compliance could be met for purposes of the IADA. Accordingly, this holding expressly and directly conflicts with the standard for establishing substantial compliance with the IADA set forth by this Court in Torres-Arboledo.

The district court's holding in Dozier also expressly and directly conflicts with the Fifth District's decision in Cox v. State, 389 So.2d 1028 (Fla. 5th DCA 1980). In Cox, the defendant sent two handwritten letters from Maryland, where he was in

custody, to the clerk's office in Florida, demanding speedy trial for Florida charges under 941.45 and the IADA. The defendant did not send a copy directly to the prosecutor. Defendant's letter omitted certain requirements of the IADA, specifically a "certificate of the official having custody of the prisoner stating the term of commitment, the time already served, the time remaining, etc." Id. The Cox Court held that the failure of Defendant to send a copy directly to the prosecutor and the omission of certain technical requirements "did not allow the state to hide behind the technical requirements of the rule" and "did not excuse the state's failure to commence action" upon defendant's invocation of speedy trial. The Cox Court ultimately found the state to be barred from prosecuting the defendant because of a violation of speedy trial under the IADA. Id.

The facts of Petitioner's case are almost identical to those of Cox, except that Petitioner made even more attempts to invoke the protections of the IADA than the defendant in Cox. The district court's holding in Dozier that Petitioner was not entitled to relief because his lack of actual notice to the prosecuting authority does not meet the requirements of substantial compliance ignores the holding of the Fifth District in Cox. It expressly and directly conflicts with the decision of another district.

Lastly, the district court's holding in Dozier expressly and directly conflicts with the Second District's opinion in State v.

Roberts, 427 So.2d 787 (Fla. 2d DCA 1983). The Roberts Court determined that Florida was a substantial compliance state for purposes of the IADA. Roberts further held that in the spirit of substantial compliance:

> [C]ourts have generally held that the Agreement does not require literal and exact compliance by the prisoner with the directions of the Agreement in order to avail itself of its benefits. If the prisoner makes a good faith effort to bring himself within the Agreement's purview, and omits nothing essential to the Agreement's operation, then his failure of strict compliance will not deprive him of its benefits.

Id. at 788.

Most importantly Roberts notes, "[t]o allow the state to hide behind the technical requirements of the rule would undermine the constitutional guarantee of a speedy trial." Id.

The district court in Dozier acknowledged no less than four attempts by Petitioner to invoke the protections of the IADA. Petitioner twice notified the warden of his institution in writing of his intention to invoke speedy trial under the IADA pursuant to the requirements spelled out in 941.45, Art. III(b), Florida Statutes. The district court further acknowledged the negligence of the sending state officials in failing to act upon Petitioner's requests. Petitioner successfully served his requests upon the Jacksonville Sheriff's Office as well as upon the Clerk of Court for the Fourth Judicial Circuit.

The Dozier Court's decision that Petitioner did not establish

substantial compliance expressly and directly conflicts with the Second District in Roberts and establishes a strict compliance standard not otherwise found in the State of Florida. In contradiction with Roberts, the district court so narrowly construes 941.45 that it defeats the stated purpose and effect of the IADA. As set forth in Roberts, the purpose of the Act is to encourage the speedy resolution of pending foreign indictments, informations, or complaints. Thus, the district court's holding expressly and directly conflicts with the decision in Roberts, which holds that strict compliance is not required, and a good faith effort to bring himself within the Agreement's purview will not deprive a prisoner of its benefits. Id. at 788.

The First District's opinion creates a legal standard that expressly and directly conflicts with the legal standard for assessing substantial compliance with the IADA held applicable by this Court in Torres-Arboledo and by the Fifth District in Cox and the Second District in Roberts. That holding creates a strict compliance standard never before recognized by this state. This Court and the Fifth and Second Districts have reached correct interpretations of substantial compliance. The Court should accept discretionary review in this case to reaffirm the standards related to substantial compliance and quash the conflicting decision of the district court below on this important point of law.

CONCLUSION

For the foregoing reasons, the Court has discretionary conflict jurisdiction to review the district court's decision in this case, and should accept jurisdiction to decide the merits of Petitioner's argument and the decision below.

Respectfully submitted,

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CERTIFICATE OF TYPE SIZE AND STYLE

Counsel for Appellant certifies that the size and style of type used in this Jurisdictional Brief is 12 point Courier New.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Jurisdictional Brief of Petitioner has been furnished to Lauren Gonzalez, Assistant Attorney General, Office of the Attorney General, Pl-01, The Capitol, Tallahassee, Florida, 32301, by e-service to crimapptlh@myfloridalegal.com, on this 23rd ay of November, 2015.

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