

IN THE SUPREME COURT
STATE OF FLORIDA

LARRY DARNELL PERRY

SC16-547

Petitioner,

v.

STATE OF FLORIDA

Respondent.

_____ /

**AMICUS WILLIAM WOODWARD'S RESPONSE
TO STATE MOTION FOR CLARIFICATION**

1. First of all, there is nothing in the State's motion seeking to clarify anything. What the State seeks is an order rewriting the statute at issue to the State's liking.

2. This Court has specifically rejected the idea of severability in cases such as this. Where the unconstitutional clause, when removed, leaves what remains non-functional, the statute is unconstitutional. *See, e.g., Ray v. Mortham*, 742 So.2d 1276 (Fla. 1999). "Severability is a judicial doctrine recognizing the obligation of the judiciary to uphold the constitutionality of legislative enactments where it is possible to strike only the unconstitutional portions." *Id.* at 1280.

3. It is not the job of this Court to rewrite the unconstitutional portions of a statute. It has in fact rejected such a role for itself. In *State v. Elder*, 382 So.2d

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687, at 690 (Fla. 1980), This Court said it “will not, however, abandon judicial restraint and invade the province off the legislature by rewriting its terms.”

4. It is worth noting the State did not insert any severability clause in the statute at issue. *Laws of Florida 2016-13*.

5. It is tempting to make the issue raised by the state more complicated than it in fact is. In point of fact, the issue is simple, and the State’s motion should be denied.

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on the 14th day of November, 2016, I electronically filed the foregoing with the Clerk of Court by using the e-portal system which will send notice of electronic filing to the following: Carol Dittmar, Assistant Attorney General, Concourse Center 4, 3507 East Frontage road, Suite 200, Tampa, Florida 33607-7013, carol.dittmar@myfloridalegal.com, capapp@myfloridalegal.com; Vivian Singleton, Assistant Attorney General, Office of the Attorney General, 444 Seabreeze Blvd, 5th Floor, Daytona Beach, Florida 32118, vivian.singleton@myfloridalegal.com, James D. McMaster, Assistant State Attorney, Office of State Attorney Eighteenth Judicial Circuit, BrevFelony@sa18.org, jmcmaster@sa18.org; the Honorable James Earp, Circuit Judge, Eighteenth Judicial Circuit, Brevard County Courthouse, 2825 Judge Fran Jamieson Way, Viera, Florida 32940, jim.earp@flcourts18.org, Tina Derwitsch,

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