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IN THE SUPREME COURT OF FLORIDA

STATE OF FLORIDA,

Petitioner,

vs.

CASE NO. SC21-20
DCA NO. 1D19-1474
L.T. NO. 2017-CF-1832

DEONTAE PALINSKI JOHNSON,

Respondent.

_____/

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PRELIMINARY STATEMENT

Respondent, the defendant in the trial court and appellant in the district court, will be referenced in this brief as Respondent or by proper name. Petitioner, the State of Florida, the prosecuting authority in the trial court and appellee in the district court, will be referenced in this brief as Petitioner, the prosecution, or the State.

The record on appeal consists of one volume, which will be referenced by volume number expressed in roman numerals followed by any appropriate page number. The record also contains the trial transcript, which will be referenced as "T." followed by any appropriate page number.

All emphasis through bold lettering is supplied unless the contrary is indicated.

STATEMENT OF THE CASE AND FACTS

The First District Court of Appeal summarized the underlying facts of the instant case as follows:

> Johnson was driving and had a passenger with him, Christian Debique. Johnson hit another vehicle, killing the driver, Tryriq Roberts. The collision caused the second vehicle to collide with a third vehicle. There were two people in the third vehicle, Breanna Cotton and Kristal Haynes. Debique, Cotton, and Haynes were all injured. Johnson left the scene of the crash without attempting to assist any of the four victims.
>
> The State charged Johnson with one count of vehicular homicide, one count of leaving the scene of a crash involving death, three counts of leaving the scene of a crash involving injury, and one count of driving with a suspended or revoked license. Prior to trial, the State dropped the driving with a suspended or revoked license charge.
>
> The jury convicted Johnson of all five of the remaining counts. At sentencing, the trial court dismissed one conviction of leaving the scene involving injury, reasoning that the unit of prosecution was each vehicle involved, not each person. Johnson was sentenced on the three remaining convictions for leaving the scene: one conviction of leaving the scene of a crash involving death; and two convictions of leaving the scene of a crash involving injury. Johnson appealed his convictions.

Johnson v. State, 307 So. 3d 853, 854 (Fla. 1st DCA 2020). The offenses occurred in 2016. (T. 49-50, 89-90). Mr. Johnson filed a

notice of appeal, and subsequently argued in the district court that his double jeopardy rights were violated by the multiple convictions and sentences for a single act of leaving the scene of a crash. The district court agreed with Mr. Johnson, and addressed the merits as follows:

> This Court has held that leaving the scene of a crash, even one resulting in death to one victim and injury to others, permits only a single conviction. *See Peer v. State*, 983 So. 2d 34, 34-35 (Fla. 1st DCA 2008). *See also Hardy v. State*, 705 So. 2d 979, 981 (Fla. 4th DCA 1998) (holding that convictions for leaving the scene of a crash involving death and leaving the scene of a crash involving personal injury constituted a single episode of leaving the scene—even though the single crash involved multiple cars and victims); *Hoag v. State*, 511 So. 2d 401, 402 (Fla. 5th DCA 1987) ("[T]he failure of [the defendant] to stop at the scene of his accident constituted but one offense although that accident resulted in injuries to four persons and the death of a fifth."). This rule applies here.
>
> Johnson's convictions for leaving the scene in which injury resulted is a lesser offense of leaving the scene in which death resulted. Thus, "[t]he proper remedy is to vacate the conviction[s] for the lesser offense[s] while affirming the conviction for the greater one." *Hardy*, 705 So. 2d at 981 (citing *Williams v. Singletary*, 78 F.3d 1510, 1516 (11th Cir. 1996)). Here, the greater conviction is for leaving the scene of a crash in which death results. Therefore, the single conviction under section 316.027(2)(c) must stand, while the two convictions based on section 316.027(2)(a) must be vacated.

Id. At no time did the district court express concern with the holding and the ramifications thereof, nor did it discuss or even mention the application of §316.062(1), Fla. Stat.

A single judge on the panel wrote a concurring opinion, with no additional judges joining. Id. at 855-856. The concurrence argued that the precedent relied upon by the district court was incorrect because it failed to account for the application of §316.062(1), Fla. Stat., which the judge believed supported his belief that separate punishments for each victim were permitted when a driver leaves the scene of a crash. Id. The State subsequently sought certification of a question of great public importance, and the district court granted the motion, certifying the following question of great public importance:

> Given the Requirements of Section 316.062(1), Florida Statutes, Does Conviction on Multiple Counts Under Section 316.027(2), Florida Statutes, Stemming From a Single Crash Involving Multiple Victims, Expose a Defendant To Multiple Punishments for One Offense in Violation of the Double-jeopardy Protections of the U.S. Constitution?

Id. at 856.

The State subsequently filed a notice to invoke the discretionary jurisdiction of this Court to answer the certified question. After considering the jurisdictional briefs filed by the parties, this Court accepted jurisdiction.

This appeal follows.

SUMMARY OF THE ARGUMENT

Regarding jurisdiction, this Court does not have discretionary jurisdiction in the instant case because the district court failed to "pass" on the question it certified to be of great public importance. Even if the district court had passed on the certified question, thereby providing a basis for discretionary jurisdiction, the issue is one of long-standing Florida law in the district courts in which no contrary court decisions have been issued on the same point of law, and is therefore not an appropriate exercise of this Court's discretionary jurisdiction. Moreover, the settled nature of this issue among the district courts reveals that the certified question is not of any great importance to the public. This Court should discharge jurisdiction as improvidently granted.

Regarding the merits of the certified question, Mr. Johnson's double jeopardy rights were violated by his multiple convictions and sentences for one count of leaving the scene involving death and two counts of leaving the scene involving injury, all arising from leaving a single crash scene. It is immaterial to the analysis that there were multiple victims at the single crash scene because the unit of prosecution for the charged offenses is per crash scene, not

per individual. The plain text of the Leaving the Scene statute reveals that the applicable active verbs for that statute are "stop" and "remain" in relation to the scene of the crash, and the only reference to §316.062(1), Fla. Stat., occurs only with a clause that relates to when a person may leave the scene after stopping and remaining. Moreover, the plain text permits a driver to ignore §316.062(1), Fla. Stat., so long as the driver stops and remains at the scene. Application of the "a/any" test also leads to the same result. Consequently, it is unsurprising that Florida's district courts have consistently reached this conclusion for over thirty years. Because double jeopardy is violated under these circumstances, the certified question must be answered in the affirmative and the decision of the First District Court of Appeal must be approved.

ARGUMENT

CERTIFIED QUESTION OF GREAT PUBLIC IMPORTANCE: GIVEN THE REQUIREMENTS OF SECTION 316.062(1), FLORIDA STATUTES, DOES CONVICTION ON MULTIPLE COUNTS UNDER SECTION 316.027(2), FLORIDA STATUTES, STEMMING FROM A SINGLE CRASH INVOLVING MULTIPLE VICTIMS, EXPOSE A DEFENDANT TO MULTIPLE PUNISHMENTS FOR ONE OFFENSE IN VIOLATION OF THE DOUBLE JEOPARDY PROTECTIONS OF THE U.S. CONSTITUTION?

Standard of review: This Court reviews this issue de novo. Hartley v. State, 129 So.3d 489 (Fla. 4th DCA 2014).

Jurisdiction: Discretionary jurisdiction cannot be exercised by this Court in the instant case because the district court failed to "pass" on the question it certified to be of great public importance. Even if the district court had passed on the certified question, thereby providing a basis for discretionary jurisdiction, the issue is one of long-standing Florida law in the district courts in which no contrary court decisions have been issued on the same point of law, and is therefore not an appropriate exercise of this Court's

discretionary jurisdiction. Moreover, the settled nature of this issue among the district courts reveals that the certified question is not of any great importance to the public. This Court should discharge jurisdiction as improvidently granted.

In Floridians for a Level Playing Field v. Floridians Against Expanded Gambling, 967 So.2d 832, 833 (Fla. 2007), this Court stated the requirements for discretionary jurisdiction based on a certified question of great public importance.

> First, it is essential that the district court of appeal pass upon the question certified by it to be of great public importance. We have previously discharged jurisdiction where the district court of appeal has not in fact passed upon the question certified. Second, there must be a district court "decision" to review. *See* art. V, § 3(b)(4), Fla. Const. For instance, where a district court is unable to reach a clear majority decision on an issue and elects to certify a question without resolving the merits, we are without jurisdiction to answer such a question under article V, section 3(b)(4) of the Florida Constitution. *See Boler v. State,* 678 So.2d 319, 320 n. 2 (Fla.1996) (stating that if a district court is evenly split on a legal issue and specifically withholds a decision on the merits, there is no "decision" on which to base certified conflict review under article V, section 3(b)(4)). Third, and most important for this case, the question must be in fact "certified" by a majority decision of the district court. For the same reasons that we are without jurisdiction under article V, section 3(b)(4) if there is no majority decision on the merits, we are equally without jurisdiction if there is

> no clear majority on the decision to certify. Accordingly, we conclude that under article V, section 3(b)(4) of the Florida Constitution, it is required that a majority of those judges participating in the case concur in the decision to certify.

(footnote omitted). This Court has explained that the requirement for a district court to issue a decision passing on its certified question is met by the court expressing concern with its holding and the ramifications thereof, and thereby demonstrating that the decision issued by the court passed on the question it certified to be of great public importance. Carpenter v. State, 228 So.3d 535, 539-540 (Fla. 2017). If this requirement is not met by the district court's opinion, the decision is not one for this Court to review and decide, but instead a final ruling on the issue. Id. These requirements can only be met by the district court's majority opinion, and not a concurring opinion. See Jenkins v. State, 385 So.2d 1356, 1359 (Fla. 1980)(holding that a concurring opinion cannot support jurisdiction because it is not the decision of the court).

Regarding the first requirement, the district court did not pass on the certified question because the district court did not express concern with its holding and the ramifications thereof. Johnson,

307 So. 3d 853 at 854. Rather, the district court merely acknowledged and applied longstanding precedent, which holds that leaving the scene of a crash permits only one conviction. Consequently, the first requirement for jurisdiction was not met because the district court did not pass upon the question. The failure of the district court decision to satisfy this requirement deprives this Court of jurisdiction to answer the certified question.

Even if the jurisdictional requirements could be considered met, this issue is well-settled and not a subject of dispute among the district courts of appeal. See Franklin v. State, 719 So.2d 938, 940 (Fla. 1st DCA 1998); Haag v. State, 67 So.3d 351, 352 (Fla. 2d DCA 1998); Hardy v. State, 705 So.2d 979, 980 (Fla. 4th DCA 1998); Hoag v. State, 511 So.2d 401, 402 (Fla. 5th DCA 1987); see also Fla. Jur 2d § 1431 (2d ed. Sept. 2020 update). It appears that the only outlier to this precedent is the concurrence of a single judge. It is telling that no effort has been made by the First District to reconsider its precedent through an en banc proceeding or, as discussed above, express a bare minimum of concern in a decision of the court. Combined with the utter lack of dispute on this issue among the district courts, the disinterest of the district court

undermines the notion that the certified question is truly one of great public importance. Under these circumstances, there is no reason to answer the specific certified question until this Court can benefit from the reasoned opinions of the district courts, should they find the question to be worthy of consideration. Consequently, even if the requirements for jurisdiction were met in the instant case, this Court should exercise its discretion and discharge jurisdiction as improvidently granted.

Merits: Mr. Johnson's double jeopardy rights were violated by his multiple convictions and sentences for one count of leaving the scene involving death and two counts of leaving the scene involving injury, all arising from leaving a single crash scene. It is immaterial to the analysis that there were multiple victims at the single crash scene because the unit of prosecution for the charged offenses is per crash scene, not per individual. The plain text of the Leaving the Scene statute reveals that the applicable active verbs for that statute are "stop" and "remain" in relation to the scene of the crash, and the only reference to §316.062(1), Fla. Stat., occurs only with a clause that relates to when a person may leave the scene after

stopping and remaining. Moreover, the plain text permits a driver to ignore §316.062(1), Fla. Stat., so long as the driver stops and remains at the scene. Application of the "a/any" test also leads to the same result. Consequently, it is unsurprising that Florida's district courts have consistently reached this conclusion for over thirty years. Because double jeopardy is violated under these circumstances, the certified question must be answered in the affirmative and the decision of the First District Court of Appeal must be approved.

The Constitution prohibits subjecting a person to multiple prosecutions, convictions, and punishments for the same offense. See Valdes v. State, 3 So.3d 1067, 1069 (Fla. 2009). These constitutional protections are found in both article 1, section 9, of the Florida Constitution and the Fifth Amendment to the U.S. Constitution. Id. The Blockburger v. U.S., 284 U.S. 299 (1932), same elements test is applied to determine whether multiple punishments are double jeopardy violations when they arise out of the same criminal transaction, unless there is an explicit statement of legislative intent to authorize separate punishments for two crimes. Id. at 1070. The Blockburger test inquires whether each

offense contains an element not contained in the other. See Holt v. State, 173 So.3d 1079, 1081 (Fla. 5th DCA 2015). If not, then they are the same offense and double jeopardy bars subsequent punishment or prosecution. Id. Even if each offense has an element that the other does not, however, double jeopardy is still violated when the crimes are 1) offenses which require identical elements of proof, 2) offenses which are degrees of the same offense as provided by statute, and 3) offenses which are lesser offenses, the statutory elements of which are subsumed by the greater offense. See Valdes, 3 So.3d at 1071; see also §775.021(4)(b).

However, when a person is charged with multiple violations of the same statute, the "allowable unit of prosecution" standard is applied to determine if that person's double jeopardy rights have been violated. State v. Rubio, 967 So. 2d 768, 777 (Fla. 2007), as revised on denial of reh'g (Oct. 18, 2007). The allowable unit of prosecution is "the aspect of criminal activity the legislature intended to punish.'" Id., quoting McKnight v. State, 906 So.2d 368, 371 (Fla. 5th DCA 2005). Legislative intent is determined by reference to the plain and obvious meaning of the words used in the statute. McCloud v. State, 260 So. 3d 911, 914 (Fla. 2018). If such

reference reveals the statute's words to be plain and unambiguous, no further rules of statutory construction are employed. Id.

In the instant case, the allowable unit of prosecution must be determined for the 2016 version of §316.027(2), Fla. Stat., to answer the certified question. The "Leaving the Scene" (hereinafter LtS) statute provides as follows in relevant part:

> (2)(a) The driver of a vehicle involved in a crash occurring on public or private property which results in injury to a person other than serious bodily injury shall immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and shall remain at the scene of the crash until he or she has fulfilled the requirements of s. 316.062. A person who willfully violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
>
> (b) The driver of a vehicle involved in a crash occurring on public or private property which results in serious bodily injury to a person shall immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and shall remain at the scene of the crash until he or she has fulfilled the requirements of s. 316.062. A person who willfully violates this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
>
> (c) The driver of a vehicle involved in a crash occurring on public or private property which results in the death of a person shall immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and shall remain at the scene of the

> crash until he or she has fulfilled the requirements of s. 316.062. . . .

§316.027(2)(a)-(c), Fla. Stat. (2016). The 2016 version of §316.062, Fla. Stat., the "Duty to Give Information and Aid" (hereinafter I&A) statute, provides as follows:

> (1) The driver of any vehicle involved in a crash resulting in injury to or death of any person or damage to any vehicle or other property which is driven or attended by any person shall give his or her name, address, and the registration number of the vehicle he or she is driving, and shall upon request and if available exhibit his or her license or permit to drive, to any person injured in such crash or to the driver or occupant of or person attending any vehicle or other property damaged in the crash and shall give such information and, upon request, exhibit such license or permit to any police officer at the scene of the crash or who is investigating the crash and shall render to any person injured in the crash reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary, or if such carrying is requested by the injured person.
>
> (2) In the event none of the persons specified are in condition to receive the information to which they otherwise would be entitled under subsection (1), and no police officer is present, the driver of any vehicle involved in such crash, after fulfilling all other requirements of s. 316.027 and subsection (1), insofar as possible on his or her part to be performed, shall forthwith report the crash to the nearest office of a duly authorized police authority

> and submit thereto the information specified in subsection (1).
>
> (3) The statutory duty of a person to make a report or give information to a law enforcement officer making a written report relating to a crash shall not be construed as extending to information which would violate the privilege of such person against self-incrimination.
>
> (4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

In reviewing the plain language of the LtS statute, it is apparent that the applicable active verbs for the statute are "stop" and "remain" in relation to the scene of the crash for subsections (a)-(c). Each subsection's command is for the driver of a vehicle involved in a crash is to stop and remain at the scene. Id. Reference to the I&A statute only occurs within a clause that relates to when a person may leave the scene after stopping and remaining without violating the LtS statute, and is not a necessary act as written in the statute. By the plain meaning of the text for the LtS statute, a driver is free to ignore the requirements of I&A, so long as they have stopped and remained at the scene. While the driver may receive a traffic ticket under the I&A's statutes own provisions, they will not violate the LtS statute by ignoring the I&A statute and simply

remaining at the scene. Stated otherwise, a driver does not violate the LtS statute simply because they do not comply with the I&A statute, but they do violate the LtS statute if they never stop after the crash at all. Thus, the plain and ordinary meaning of the text, reflected in the active verbs of "stop" and "remain" in relation to a crash scene reveals that the criminal act which the legislature intended to punish was leaving the scene of a crash. The allowable unit of prosecution is therefore per crash scene, and the certified question must be answered in the affirmative.

The State's argument to the contrary is based upon a simple, but important, misreading of the statute. Specifically, the State has erroneously misread the LtS statute to command that a driver comply with the I&A statute outright, and that because the I&A statute references aid to people, the unit of prosecution must be per individual who is not aided. As demonstrated above, the plain meaning of the statute shows that this is not true, and that the LtS statute does not necessitate unconditional compliance with the I&A statute, but does necessitate that a person not leave the scene of a crash, resulting in the unit of prosecution being the act of leaving the scene of a crash. Notably, the legislature has taken a different

tack with first degree Vehicular Homicide and necessitated compliance with the I&A statute, rather than permit a person to ignore it so long as they stop and remain at the scene of a crash. Section 782.071(1)(b), Fla. Stat. (2016), provides that Vehicular Homicide is a first degree felony when:

> (b) A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:
> 1. At the time of the accident, the person knew, or should have known, that the accident occurred; and
> 2. The person failed to give information and render aid as required by s. 316.062.

Absent is any reference to stopping and remaining at the scene. Therefore, the unit of prosecution is each victim, rather than each crash scene. See McKnight v. State, 906 So. 2d 368, 374 (Fla. 5th DCA 2005).

The First District recently undertook a similar double jeopardy analysis regarding an armed robbery in Baker v. State, 2021 WL 2697358 at *1 (Fla. 1st DCA July 1, 2021). In Baker, the two defendants entered an office, bound two people inside and ordered them onto the floor at gunpoint. Id. at 2. The codefendant then took a single "wad" of money from the back of the office. Id. The defendant was then charged and convicted of two counts of armed

robbery, each count corresponding to a single victim. Id. at 1. The robbery statute reads in relevant part as follows:

> "Robbery" means the taking of money or other property which may be the subject of larceny from the person or custody of another, with intent to either permanently or temporarily deprive the person or the owner of the money or other property, when in the course of the taking there is the use of force, violence, assault, or putting in fear.

§ 812.13, Fla. Stat. To be sure, there is reference in the robbery statute to "the person" or otherwise to individuals, but "taking" is clearly the active verb towards which a prohibition is directed. The First District acknowledged that there were two victims in the case. Id. at 2. Nevertheless, the court held that because there was only one taking, there could be only one "legislatively defined offense." Id. The State conceded error in this case, agreeing with the defense's reasoning. Id. at 1.

Similarly, both the LtS statute and the I&A statute contain references to individuals. However, just as in Baker, these references do not determine the legislatively defined offense. Rather, just as in Baker, the legislatively defined offense is revealed by the active verbs in the text of the LtS statute, which are "stop" and "remain" in relation to the scene of a crash.

Application of the "a/any" test also contradicts the State's argument that thee I&A statute's references to rendering aid to people results in the unit of prosecution being per individual. In the absence of clear legislative intent to the contrary, "the a/any test serves as a valuable but nonexclusive means to assist courts in determining the intended unit of prosecution." Rubio, 967 So.2d 768 at 777, quoting Bautista v. State, 863 So.2d 1180, 1187 (Fla. 2003). Under the a/any test, the article "a" is unambiguous, whereas "any" is ambiguous and results in the rule of lenity being applied to prevent more than one unit of prosecution. Id. Applying this to the I&A statute reveals that usage of the word "any" appears before the statute refers to persons to be aided: ". . . shall render to any person injured in the crash reasonable assistance . . ." Consequently, the reference to people in I&A cannot support a per individual unit of prosecution because "any" precedes the reference, and the certified question must be answered in the affirmative.

Long-standing Florida precedent also contradicts the State's position, necessitating an affirmative answer to the certified question. In Hardy v. State, 705 So.2d 979 (Fla. 4th DCA 1998), the defendant was involved in a traffic accident with two other

vehicles, and then left the scene. One of those vehicles contained two people, both of whom died as a result of the accident, and one contained a single person, who suffered serious injury as a result of the accident. Id. The defendant was charged with both leaving the scene of an accident involving injury and leaving the scene of an accident involving death. Id. The appellate court held that each charge was a different degree of the same crime, and that therefore the dual convictions violated double jeopardy. Id. at 980. The lesser offense of leaving the scene involving injury was vacated. Id. at 981. The court noted that the appropriate "unit of prosecution" is not the number of people, but the number of accidents. Id. at 980.

In Hoag v. State, 511 So.2d 401 (Fla. 5th DCA 1987), the defendant hit a group of pedestrians with his vehicle, which killed one person and injured four others, and left the scene of the accident. Among other offenses, the defendant was charged with one count of leaving the scene of an accident with a death, and four counts of the leaving the scene of an accident involving injuries. Id. The appellate court, reasoning that "there was but one scene of the accident and one failure to stop", held that convicting the defendant

five times of leaving the scene violated his double jeopardy rights. Id. at 402. The court therefore vacated the second through fifth conviction. Id.

In Yeye v. State, 37 So.3d 324, 325 (Fla. 4th DCA 2010), the defendant fled from law enforcement in a vehicle, and during the chase, caused a chain reaction accident with three parked cars by hitting one car and causing it to smash into two other cars. The defendant failed to stop at the scene of the accident, and was charged with three counts of leaving the scene. Id. at 325. The court held that the triple convictions violated double jeopardy principles, reasoning that the decision to leave the scene of the chain reaction accident was a single crime, and vacated two of the convictions. Id. at 326.

The State argues that prior precedent from the Florida district courts of appeal that uniformly contradict their position over decades are flawed because the courts failed to consider the requirements of the I&A statute. (IB 13-15). In other words, the State's explanation for the district courts consistently ruling against them on this issue is that the courts not only reached the wrong conclusion each time, but they failed to do the basic task of

considering the statutes involved. It is far more likely that the district courts did not specifically write about the State's position on the I&A statute because it's flaw was too apparent to warrant discussion in a written opinion, than that for over thirty years the district courts have consistently failed to perform their duties on this issue. As discussed above, the State's argument is based on a misreading of the statute that is clear from the plain text, and so it is unsurprising that the district courts of Florida would not have found it worthy of discussion in a published opinion.

The State points to a portion of the LtS statute regarding restitution as support for its argument that the unit of prosecution is per individual. The portion of the LtS statute reads in relevant part as follows:

> Notwithstanding s. 775.089(1)(a), if the driver of a vehicle violates paragraph (a), paragraph (b), or paragraph (c), the court shall order the driver to make restitution to the victim for any damage or loss unless the court finds clear and compelling reasons not to order the restitution.

§316.027(4), Fla. Stat. Rather than support the State's position, this portion of the statute undermines it. If the unit of prosecution was per individual, the legislature would not have needed to

buttress the ability to collect restitution, but could merely rely on the existing restitution statute. Regardless, it is the plain language of the statute itself that drives the analysis, not unsupported suppositions about restitution.

The State cites for support State v. Dumas, 700 So.2d 1223, 1225 (Fla. 1997), which notes that one of the main purposes of the statute is to ensure that accident victims receive medical assistance as soon as possible. (AB 11). However, the State has failed to apprehend that "one of the main purposes" does not mean it is the only purpose. Moreover, relying on the plain language of the statute is the applicable analysis, rather than discerning an overarching purpose or "primary evil" to a statute. As discussed above, the plain language of the statute necessitates that the certified question be answered in the affirmative because multiple convictions for leaving a single crash scene with multiple individuals hurt or deceased violates Mr. Johnson's double jeopardy rights.

The State also cites to McKnight v. State, 906 So.2d 368 (Fla. 5th DCA 2005), to support its position. As already discussed, the vehicular homicide statute at issue in McKnight is structured

differently than in the instant case. Moreover, the McKnight court expressly distinguished its reasoning from Leaving the Scene offenses, and reaffirms that the unit of prosecution for such offenses is each crash, not each victim. Id. at 373-374. The State's brief has failed to include this important detail.

The State also cites to State v. Marsh, 308 So.3d 59 (Fla. 2020), which involved charges of driving under the influence and driving while license suspended, rather than leaving the scene of an crash. The State's reliance on Marsh is inapposite, for precisely the reason that it involves different statutes than at issue in the instant case.

Multiple convictions for the single act of leaving a single crash scene involving injury and death for multiple individuals violate the double jeopardy protections of the United States Constitution because the unit of prosecution is per crash scene, not per individual. This result is necessitated by the plain text of the statute, the "a/any" test, and over thirty years of consistent decisions on this issue from the district courts. The certified question must be answered in the affirmative and the decision of the First District approved.

CONCLUSION

Based on the foregoing, the Respondent respectfully requests this Court answer the certified question in the affirmative and approve the decision of the First District Court of Appeal.

CERTIFICATES

I hereby certify, pursuant to Florida Rule of Appellate Procedure 9.045, that this brief complies with the applicable font and word-count-limit requirements. I hereby certify that this brief was served, via the Florida Courts E-Filing Portal, on Damaris E. Reynolds, Assistant Attorney General, at damaris.reynolds@myfloridalegal.com, and by U.S. mail to Deontae Palinski Johnson on September 8, 2021.

Respectfully submitted,

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