

IN THE SUPREME COURT OF FLORIDA

STATE OF FLORIDA,

PETITIONER,

V.

DEONTAE PALINSKI JOHNSON,

RESPONDENT.

CASE NO. SC2021-20

FIRST DCA CASE NO. 1D19-1474

PETITIONER'S REPLY BRIEF

ASHLEY MOODY
ATTORNEY GENERAL

TRISHA MEGGS PATE
Chief Assistant Attorney General
Florida Bar No. 45489

DAMARIS E. REYNOLDS
Assistant Attorney General
Florida Bar No. 37176

Office of the Attorney General
PL-01, The Capitol
Tallahassee, FL 32399-1050
(850) 414-3300 (Phone)
(850) 922-6674 (Fax)

RECEIVED, 10/08/2021 10:21:21 AM, Clerk, Supreme Court

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PRELIMINARY STATEMENT

Petitioner, the State of Florida, was the Appellee in the District Court of Appeal and the prosecuting authority in the trial court. Petitioner will be referred to in this brief as the State. Respondent, Deontae Palinski Johnson, was the Appellant in the District Court of Appeal and the defendant in the trial court. Respondent will be referred to in this brief as such.

STATEMENT OF THE CASE AND FACTS

On December 26, 2016, Respondent ran a red light and struck a vehicle which then struck another vehicle. Respondent was subsequently charged and convicted of Leaving the Scene of the Crash Involving the Death of Tyriq Roberts without rendering aid, as well as three counts of Leaving the Scene of the Crash Involving Personal Injury to Breanna Cotton, Kristal Haynes, and Christian Debique without rendering aid. The trial court dismissed one conviction for leaving the scene of a crash involving personal injury.

Respondent was sentenced for leaving the scene of a crash involving death and two counts of leaving the scene of a crash involving personal injury without rendering aid. On appeal, he argued that more than one conviction of leaving the scene of a crash without rendering aid constituted a double jeopardy violation. The First District Court affirmed his conviction for leaving the scene of a crash involving death but vacated the convictions for leaving the scene of a crash involving personal injury in reliance on District Court precedent. The State filed a Motion for Certification, arguing that the plain language of the statutes in question require one conviction per person who is injured and is not rendered aid.

On December 9, 2020, the First District Court certified 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 the Florida Supreme Court. This Court accepted jurisdiction and the instant appeal followed.

SUMMARY OF THE ARGUMENT

Respondent caused a multiple vehicle crash in which he killed one person and injured three others. He was properly convicted of one count of leaving the scene of a crash resulting in death without rendering aid and three counts of leaving the scene of a crash resulting in injury without rendering aid. The trial court and the appellate court erred in finding a double jeopardy violation because multiple punishments for multiple offenses stemming from one criminal episode do not violate the double jeopardy protections of the United States and Florida Constitutions when statutory law provides for separate punishments.

Section 316.027, Florida Statutes, requires a driver involved in a crash to stay at the scene of the crash and fulfill the duties prescribed in section 316.062, Florida Statutes, which include providing aid to each person injured in the crash and making arrangements for each injured person to be transported for medical treatment, if necessary. One of the main purposes of the statute is to ensure medical care for the crash victims. Therefore, the unit of prosecution should be the number of crash victims, not the number of crashes. Aid cannot be rendered to the scene of a crash.

Aid must be rendered to each person injured in a crash. Prior cases holding that a driver can only be convicted of one count of leaving the scene of a crash without rendering aid have overlooked the requirements of section 316.062, Florida Statutes, even though it is specifically referenced in section 316.027, Florida Statutes. Contrary to Respondent's argument, neither drivers nor courts may ignore the statutory requirements.

ARGUMENT

Respondent's argument -- that the plain language of section 316.027(2), Florida Statutes, permits a driver to ignore section 316.062(1), Florida Statutes, even though section 316.062 is specifically referenced in section 316.027(2) -- is incorrect.

The plain language of section 316.027(2) makes it perfectly clear that the requirements of section 316.062 must be fulfilled by a driver at the scene of the crash. Neither courts nor drivers may ignore the plain language of the statutes in question. Section 316.027(2)(a), Florida Statutes, specifically provides as follows:

(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...**

(emphasis added).

Section 316.062(1), Florida Statutes, 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.**

(emphasis added).

Section 316.062 is clearly referenced as the reason that a driver is to stop and remain at the scene of the crash. The driver must stop and remain until he or she has fulfilled the requirements of section 316.062. The specific reference in section 316.027 of the statutory section requiring a driver to render aid to each injured person clearly establishes that the unit of prosecution is each individual victim.

Respondent's suggestion that section 782.071(1)(b), Florida Statutes, does not require a driver to stop and remain at the scene of a crash is also incorrect. Section 782.071(1)(b) defines when a Vehicular Homicide is a first degree felony. It provides that Vehicular Homicide is a first degree felony when the driver knew or should have known that the accident occurred and failed to give information and render aid as required by section 316.062. The argument, that the

absence of any reference to stopping and remaining at the scene in section 782.071(1)(b) is what makes the unit of prosecution each victim, is completely unavailing. The unit of prosecution is each victim because each victim was killed as a result of the driver's reckless operation of a motor vehicle. Similarly, the unit of prosecution should be each victim who is abandoned at the scene of a crash without being rendered aid, even if the extent of injury to each victim is not death.

Respondent's reliance on *Baker v. State*, 2021 WL 2697358 at *1 (Fla. 1st DCA July 1, 2021), is misplaced. In that case, the defendant broke into an office, held two people at gunpoint, and stole a single wad of money from the office. Therefore, Baker could not be convicted for committing two armed robberies as would be the case if he had stolen one wad of money from each person.

Here, four offenses were committed against four persons. The statutes in question contain no ambiguity regarding the clearly expressed intent of the Legislature to permit multiple prosecutions and convictions for multiple offenses occurring during a single episode of leaving the scene of a crash without rendering aid. Aid must be rendered to each victim. Aid cannot be rendered to the crash scene.

Because the language of the statute is plain and unambiguous, there is no need to employ the rules of statutory construction in an effort to divine the legislative intent. The “a/any” test does not apply in this instance because the statutes are clear that each person must be rendered reasonable assistance. Section 316.027(2)(a) requires a driver to stop and remain at the scene of a crash which results in injury to “a” person. When “a” person is injured, a driver must remain at the scene until fulfilling the requirements of section 316.062(1), which requires rendering aid to “any” person who is injured and making of arrangements for “such” person to receive medical treatment, if apparent that it is necessary, or at the request of “the” injured person. Although “any” can be a reference to multiple persons, the use of “a” and “such” and “the” all indicate that aid must be rendered to each victim.

As this Court noted in *State v. Maisonet-Maldonado*, 308 So.2d 63 (Fla. 2020), “A court’s determination of the meaning of a statute begins with the language of the statute.” *Halifax Hosp. Med. Ctr. v. State*, 278 So.3d 545, 547 (Fla. 2019) (citing *Lopez v. Hall*, 233 So.3d 451, 453 (Fla. 2018)). If the language of the statute is clear, “the statute is given its plain meaning, and the court does not ‘look

behind the statute's plain language for legislative intent or resort to rules of statutory construction.' ” *Id.* (quoting *City of Parker v. State*, 992 So.2d 171, 176 (Fla. 2008)).

The plain language of the statutes at issue makes the legislative intent clear. “The intent of the Legislature is to convict and sentence for each criminal offense committed in the course of one criminal episode or transaction and not to allow the principle of lenity as set forth in subsection (1) to determine legislative intent.” Section 775.021(4)(b), Florida Statutes.

CONCLUSION

This Court should reject Respondent's flawed argument that the courts should continue to ignore the reference to section 316.062 which is found in section 316.027 and eliminate the duty it imposes upon drivers to render aid to each victim of a crash. Because the Legislature intends to punish each criminal offense committed, one criminal episode may include more than one criminal offense without violating double jeopardy. This Court should reverse the First District Court's ruling below and answer the certified question in the negative, given that no double jeopardy violation occurs when each charge contains an element which the other does not. See *State v. Marsh*, 308 So.3d 59 (Fla. 2020).

CERTIFICATES OF SERVICE AND COMPLIANCE

I hereby certify that a copy of this brief was furnished to counsel of record by electronic mail via the e-filing portal on October 8, 2021.

I hereby certify that this brief was computer generated using Bookman Old Style 14-point font and contains 2141 words according to the word count feature in Microsoft Word, in compliance with Florida Rule of Appellate Procedure 9.045(e).

Respectfully submitted and certified,

ASHLEY MOODY
ATTORNEY GENERAL

/s/ Damaris E. Reynolds
By: DAMARIS E. REYNOLDS
Assistant Attorney General
Florida Bar No. 37176

Attorney for the State of Florida
Office of the Attorney General
PL-01, The Capitol
Tallahassee, FL 32399-1050
(850) 414-3300 (Phone)
(850) 922-6674 (Fax)
Damaris.Reynolds@myfloridalegal.com
Trisha.Pate@myfloridalegal.com
crimapptlh@myfloridalegal.com