

IN THE SUPREME COURT OF FLORIDA

FILED
DEBBIE CAUSSEAU

JAN 31 2000

CLERK, SUPREME COURT

BY DJ

WILLIAM D. SIMON,

Petitioner,

v.

Case No. SC00-118

STATE OF FLORIDA,

Respondent.

ON PETITION FOR REVIEW FROM
THE SECOND DISTRICT COURT OF APPEAL
STATE OF FLORIDA

JURISDICTIONAL BRIEF OF RESPONDENT

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STATEMENT REGARDING TYPE

The size and style of type used in this brief is 12-point Courier New, a font that is not proportionately spaced.

TABLE OF AUTHORITIES

CASES

Cotton v. State,
728 So. 2d 251 (Fla. 2d DCA 1998) 5

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McKnight v. State,
727 So. 2d 314 (Fla. 3d DCA 1999) 5

MISCELLANEOUS

Fla. R. App. P. 9.030(a)(2)(a)(I) (1999)

STATEMENT OF THE CASE AND FACTS

Respondent accepts Petitioner's statement of the case and facts.

SUMMARY OF THE ARGUMENT

Respondent acknowledges that this Court may exercise its discretionary jurisdiction to review the decision of the Second District Court of Appeal in the instant case pursuant to Florida Rule of Appellate Procedure 9.030(a)(2)(a)(I) (1999) because the decision construes the constitutional validity of the Prison Releasee Reoffender Statute.

ARGUMENT

ISSUE

WHETHER THIS COURT HAS DISCRETIONARY JURISDICTION TO REVIEW PETITIONER'S CASE WHEN THE DISTRICT COURT'S OPINION CITED TO A PRIOR OPINION OF THE COURT EXPRESSLY DECLARING VALID THE PRISON RELEASEE REOFFENDER ACT?


Respondent acknowledges that in Grant v. State, 24 Fla. L. Weekly D2627 (Fla. 2d DCA Nov. 24, 1999), the Second District Court of Appeal expressly declared the Prison Releasee Reoffender Statute (§ 775.082(8), Fla. Stat. (1997)) to be valid and in doing so rejected constitutional attacks on the statute based upon: (1) the single subject rule (2) violation of separation of powers (3) cruel and unusual punishment (4) vagueness (5) due process (6) equal protection and (7) ex post facto. Numerous cases are presently pending before this Court regarding the validity of this statute based upon the constitutional grounds raised by Petitioner. This Court has already heard oral arguments regarding these issues on November 3, 1999, in the cases of McKnight v. State, 727 So. 2d 314 (Fla. 3d DCA), review granted, 740 So. 2d 528 (Fla. 1999), and Cotton v. State, 728 So. 2d 251 (Fla. 2d DCA 1998), review granted, 737 So. 2d 551 (Fla. 1999).

CONCLUSION

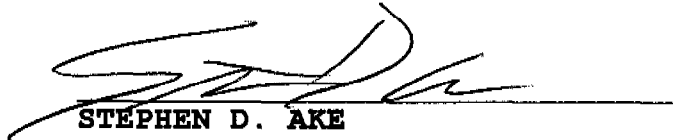
Respondent respectfully requests that this Court grant review in the instant case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to Allyn M. Giambalvo, Assistant Public Defender, Polk County Courthouse, P.O. Box 9000 - Drawer PD, Bartow, Florida 33831 this 28th day of January 2000.



COUNSEL FOR RESPONDENT