

IN THE SUPREME COURT OF FLORIDA

CASE NO SC00-1252

BILLY LAMONT CULPEPPER,

Petitioner,

vs.

THE STATE OF FLORIDA,

Respondent.

ON APPEAL FROM THE THIRD DISTRICT COURT OF APPEAL
CASE NO. 3D99-2387

BRIEF OF RESPONDENT ON THE MERITS

ROBERT A. BUTTERWORTH
Attorney General
Tallahassee, Florida

MICHAEL J. NEIMAND
Sr. Assistant Attorney General
Florida Bar No. 0239437
FRANK J. INGRASSIA
Assistant Attorney General
Florida Bar No. 0116180
Office of the Attorney General
Department of Legal Affairs
200 S.E. 6th Street - 9th Floor
Fort Lauderdale, Florida 33301
(954)-712-4600-Telephone
(954)-712-4761-Facsimile

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INTRODUCTION

In the trial court the Petitioner, BILLY LAMONT CULPEPPER, was the Defendant and the Respondent, THE STATE OF FLORIDA, was the prosecution. The parties will be referred to as they stood in the trial court. The symbol "R" denotes the record on appeal and references to the Appendix will be denoted by the letter "A."

STATEMENT OF THE CASE AND FACTS

The State accepts Defendant's Statement of the Case and Facts to the extent that it is accurate and non-argumentative.

QUESTION PRESENTED

WHETHER THE PRISON RELEASEE REOFFENDER ACT
VIOLATES THE SEPARATION OF POWERS CLAUSE OF
THE FLORIDA CONSTITUTION?

SUMMARY OF THE ARGUMENT

The order of the Third District Court of Appeal was issued prior to this Court's decision rendered in State v. Cotton, ____ So.2d____, 25 Fla. L. Weekly S463 (Fla. June 16, 2000). The Third District Court of Appeal certified the issue to this Court as to whether the Prison Releasee Reoffender Act violated the Separation of Powers doctrine of the Florida Constitution. In Cotton, this Court resolved the issue and concluded that the Prison Releasee Reoffender Act is constitutional. Accordingly, the certified issue has been resolved against Defendant and in favor of the State.

ARGUMENT

**THE DECISION OF THE DISTRICT COURT OF APPEAL
SHOULD BE AFFIRMED BECAUSE THIS COURT HAS HELD
THAT THE PRISON RELEASEE REOFFENDER ACT DOES
NOT VIOLATE THE SEPARATION OF POWERS DOCTRINE.**

Defendant argued in the Third District Court of Appeal that the Prison Releasee Reoffender Act was unconstitutional as a violation of the Separation of Powers doctrine under the Florida Constitution. Defendant now candidly and properly concedes that this Court's recent decision in State v. Cotton, ___So.2d___, 25 Fla. L. Weekly S463 (Fla. June 16, 2000) has resolved the issue against Defendant and in favor of the State. Accordingly, the decision of the District Court of Appeal should be approved.

CONCLUSION

WHEREFORE, based on the foregoing citations of authority and arguments, this Honorable Court should approve the order of the Third District Court of Appeal.

Respectfully Submitted,

ROBERT A. BUTTERWORTH
Attorney General

MICHAEL J. NEIMAND
Sr. Assistant Attorney General
Florida Bar No. 0239437

FRANK J. INGRASSIA
Sr. Assistant Attorney General
Florida Bar No. 0116180
Office of the Attorney General
Department of Legal Affairs
200 S.E. 6th Street -9th Floor
Fort Lauderdale, Florida 33301
(954)-712-4600-Telephone
(954)-712-4761-Facsimile

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing

BRIEF OF RESPONDENT was mailed to BENNETT H. BRUMMER, Public Defender, Eleventh Judicial Circuit, 1320 NW 14th Street, Miami, Florida, 33125, Attn., Robert Kalter, Esq. on this _____ day of July, 2000.

FRANK J. INGRASSIA
Sr. Assistant Attorney General

CERTIFICATE OF FONT

I HEREBY CERTIFY that the size and style of type used herein is proportionally spaced Courier New, 12 point.