

IN THE SUPREME COURT OF FLORIDA

Case No. SC00-1917

Third DCA Case No. 3D96-2325

ERMON LEE LANE,
Petitioner,

-vs-

THE STATE OF FLORIDA
Respondent.

ON PETITION FOR DISCRETIONARY REVIEW

ANSWER BRIEF OF THE RESPONDENT ON THE MERITS

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INTRODUCTION

In this brief, the parties are referred to as “the State” and “the Defendant”. The Respondent, the State of Florida, was the prosecution in the Circuit Court of the Eleventh Judicial Circuit, in Miami-Dade County, Florida. Emoron Lee Lane, the Petitioner was the defendant. The Respondent was the appellee in the District Court and the Petitioner was the appellant.

The following abbreviations are used herein:

“T” Transcript on Appeal

“R” Record on Appeal

STATEMENT OF THE CASE

For the limited purpose of answering the certified question before this Court, to

wit:

Should the decision in Parker v. State, 408 So. 2d 1037 (Fla. 1982), be overruled in favor of the analysis of the evidentiary requirements for proof of convicted felon status in firearm violation cases established for federal courts in Old Chief v. United States, ___ U.S. ___, 117 S.Ct. 644, 136 L.Ed. 2d574 (1997).

The State accepts the defendant's statement of the case and those facts pertaining to preservation and argument in support of the issue on appeal.

The State's answer on the merits follows.

ISSUE PRESENTED

SHOULD THE DECISION IN PARKER V. STATE, 408 SO. 2D 1037 (FLA. 1982), BE OVERRULED IN FAVOR OF THE ANALYSIS OF THE EVIDENTIARY REQUIREMENTS FOR PROOF OF CONVICTED FELON STATUS IN FIREARM VIOLATION CASES ESTABLISHED FOR FEDERAL COURTS IN OLD CHIEF V. UNITED STATES, ___ U.S. ___, 117 S.CT. 644, 136 L.ED. 2D574 (1997).

SUMMARY OF THE ARGUMENT

The instant case is controlled by this Court's decision in Brown v. State, 719 So. 2d 882 (Fla. 1998). Consequently, this Court should quash the decision of the Third District Court of Appeal and remand this cause to the trial court for a new trial.

ARGUMENT

THE INSTANT CASE IS CONTROLLED BY THIS COURT'S DECISION IN BROWN V. STATE, 719 SO. 2D 882 (FLA. 1998). CONSEQUENTLY, THIS COURT SHOULD QUASH THE DECISION OF THE THIRD DISTRICT COURT OF APPEAL AND REMAND THIS CAUSE TO THE TRIAL COURT FOR A NEW TRIAL.

This Court held in Brown v. State, 719 So. 2d 882 (Fla. 1998) that when a criminal defendant offers to stipulate to the convicted felon element of a charge of possession of a firearm by a convicted felon, the State and the trial court should accept that stipulation. Consequently, because the petitioner, like the defendant in Brown, timely objected to the introduction of his prior felony convictions into evidence, preserved this issue for appeal and argued it before the Third District, and subsequently did the same in this Court the case should be remanded for a new trial.

CONCLUSION

Based on the foregoing argument and authorities, the State submits that the instant case should be remanded to the Circuit Court for a new trial.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Respondent's Answer Brief on the Merits was provided by U.S. Mail to Marti Rothenberg, Assistant Public Defender, 1320 NW 14th Street, Miami, Florida 33125, this 8th day of November 2000.

FREDERICKA SANDS
Assistant Attorney General

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This brief utilizes 14 point Times New Roman and contains a word count of 754.

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