

# Supreme Court of Florida

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No. SC00-216

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**DAVID AGUAYO,**  
Petitioner,

vs.

**STATE OF FLORIDA,**  
Respondent.

[June 28, 2001]

LEWIS, J.

We have for review Aguayo v. State, 747 So. 2d 1050 (Fla. 5th DCA 2000).

We have jurisdiction. See art. V, § 3(b)(4), Fla. Const.

The petitioner challenges his sentence under the Prison Releasee Reoffender Act (the “Act”) on several grounds, all of which have been previously addressed by opinions of this Court. See Grant v. State, 770 So. 2d 655 (Fla. 2000) (rejecting an ex post facto challenge to the Act and holding that the Act violates neither the single subject rule for legislation nor principles of equal protection);

McKnight v. State, 769 So. 2d 1039 (Fla. 2000) (holding that a defendant has the right both to present evidence to prove that the defendant does not qualify for sentencing under the Act and to challenge the State’s evidence regarding the defendant’s eligibility for sentencing as a prison releasee reoffender); State v. Cotton, 769 So. 2d 345 (Fla. 2000) (holding that the Act does not permit a “victim veto” which would violate a defendant’s due process rights by precluding application of the Act in some instances but not others, as well as holding that the Act is not void for vagueness and does not constitute a form of cruel or unusual punishment); Ellis v. State, 762 So. 2d 912 (Fla. 2000) (recognizing that publication in the Laws of Florida or the Florida Statutes gives all citizens constructive notice of the consequences of their actions). Accordingly, we approve the decision of the district court to the extent it is consistent with Grant, McKnight, Cotton, and Ellis. We also deny as moot the motion of the petitioner’s counsel to withdraw from representation.

It is so ordered.

WELLS, C.J., and SHAW, HARDING, ANSTEAD, and PARIENTE, JJ., concur.  
QUINCE, J., dissents.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND  
IF FILED, DETERMINED.

Application for Review of the Decision of the District Court of Appeal -  
Certified Direct Conflict

Fifth District - Case No. 5D99-1304

(Orange County)

James B. Gibson, Public Defender, and Noel A. Pelella, Assistant Public  
Defender, Seventh Judicial Circuit, Daytona Beach, Florida,

for Petitioner

Robert A. Butterworth, Attorney General, and Kellie A. Nielan, Assistant Attorney  
General, Daytona Beach, Florida,

for Respondent