

095

IN THE SUPREME COURT OF FLORIDA

REGINALD FRAZIER,  
Petitioner,  
v.  
STATE OF FLORIDA,  
Respondent.

**FILED**  
THOMAS D. HALL

NOV 02 2000

CLERK, SUPREME COURT  
BY \_\_\_\_\_

Case No.

SC00-2198

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

**JURISDICTIONAL BRIEF OF RESPONDENT**

**ROBERT A. BUTTERWORTH**  
**ATTORNEY GENERAL**

**ROBERT J. KRAUSS**  
**Senior Assistant Attorney General**  
**Chief of Criminal Law, Tampa**  
Florida Bar No. 238538

**RONALD NAPOLITANO**  
**Assistant Attorney General**  
Florida Bar No. 175130  
2002 North Lois Avenue, Suite 700  
Tampa, Florida 33607-2367  
(813)873-4739

**COUNSEL FOR RESPONDENT**

**TABLE OF CONTENTS**

STATEMENT REGARDING TYPE . . . . . i

TABLE OF CITATIONS . . . . . ii

STATEMENT OF THE CASE AND FACTS . . . . . 1

SUMMARY OF THE ARGUMENT . . . . . 2

ARGUMENT . . . . . 3

WHETHER THE FLORIDA SUPREME COURT SHOULD GRANT DIS-  
CRETIONARY REVIEW OF THE DECISION OF THE SECOND  
DISTRICT COURT OF APPEALS IN THE CASE OF FRAZIER V.  
STATE, CASE NO. 99-04293 (FLA, 2D DCA September 27,  
2000) BECAUSE THAT DECISION EXPRESSLY DECLARES  
VALID A STATE STATUTE (THE PRISON RELEASEE  
REOFFENDER ACT) OR EXPRESSLY CONSTRUES A PROVISION  
OF THE STATE OR FEDERAL CONSTITUTION (RESTATED).

CONCLUSION . . . . . 5

CERTIFICATE OF SERVICE . . . . . 5

**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 CITATIONS**

Cotton v. State,  
25 Fla. L. Weekly S463 (Fla. June 15, 2000) . . . . . 2,3,4

Frazier v. State,  
Case No. 99-04293 (Fla. 2d DCA September 27, 2000) . . . . . 2, 3

**OTHER AUTHORITIES:**

§777.082, Fla. Stat. (1997) . . . . . 3

Art. V. §3(b)(3), Fla. Const. . . . . 3

Fla. R. App. Pro. 9.030(a)(2)(A)(I)(ii) (2000) . . . . . 3

**STATEMENT OF THE CASE AND FACTS**

The opinion of the Second District Court of Appeal, a copy of which is appended to Petitioner's Brief on Jurisdiction, outlines the relevant facts at this stage of the proceedings.

### SUMMARY OF THE ARGUMENT

This Court has discretionary jurisdiction to review the decision of the Second District Court of Appeal in Frazier v. State, Case No. 99-04293 (Fla. 2d DCA September 27, 2000) because it specifically upheld the validity of the Prison Releasee Reoffender Act against a constitutional attack based upon this Court's reasoning in Cotton v. State, 25 Fla. L. Weekly S463 (Fla. June 15, 2000), *revised opinion* 25 Fla. L. Weekly S689 (Fla. September 14, 2000). This Court should, nevertheless, deny review in this case because the legal argument raised by the petitioner - whether the PRR Act violates the constitution because it applies only to those who reoffend within three years of their release from Florida prisons and not other prison systems - although not specifically addressed in this Court's earlier decision in Cotton v. State, 25 Fla. Weekly (S)689 (Fla. Sept. 14, 2000) *revised opinion*, was briefed by the parties; and this Court's opinion in Cotton, id., by its silence regarding that argument, has implicitly rejected it.

## ARGUMENT

WHETHER THE FLORIDA SUPREME COURT SHOULD GRANT DISCRETIONARY REVIEW OF THE DECISION OF THE SECOND DISTRICT COURT OF APPEALS IN THE CASE OF FRAZIER V. STATE, CASE NO. 99-04293 (FLA, 2D DCA September 27, 2000) BECAUSE THAT DECISION EXPRESSLY DECLARES VALID A STATE STATUTE (THE PRISON RELEASEE REOFFENDER ACT) OR EXPRESSLY CONSTRUES A PROVISION OF THE STATE OR FEDERAL CONSTITUTION (RESTATED).

Respondent acknowledges that this Court has discretionary jurisdiction pursuant to Art. V. §3(b)(3), Fla. Const. and Fla. R. App. Pro. 9.030(a)(2)(A)(I)(ii) (2000) to review the decision of the Second District Court of Appeal in the case of Frazier v. State, No. 2d99-04293 (Fla. 2d DCA September 27, 2000) wherein the district court upheld the validity of the prison releasee reoffendrr act, §777.082, Fla. Stat. (1997) against constitutional attacks based upon this Court's reasoning in Cotton v. State, 25 Fla. L. Weekly S463 (Fla. June 15, 2000), *revised opinion* 25 Fla. L. Weekly S689 (Fla. September 14, 2000).

This Court did not directly express its opinion in Cotton, *id.*, as to whether the petitioner's constitutional rights of due process, equal protection, as well as the prohibition against cruel and unusual punishment, are violated because the PRR Act only applies to offenders who committed designated offenses within three years of their release from Florida prison and not offenders released from other prison systems. However, this Court rejected

these constitutional claims based upon other asserted legal arguments. Respondent would point out that the arguments presented by the petitioner sub judice were raised in the Cotton answer brief at pages 18 and addressed in the State's reply brief at page 13 (copies of said briefs are attached to this jurisdictional brief). This Court has already implicitly rejected this legal argument by not addressing it in its decision in Cotton, *supra*, even though the claim was briefed by the parties in that case. This Court should deny discretionary review in this case.

**CONCLUSION**

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

Respectfully submitted,

ROBERT A. BUTTERWORTH  
ATTORNEY GENERAL



ROBERT J. KRAUSS  
Senior Assistant Attorney General  
Chief of Criminal Law, Tampa  
Florida Bar No. 238538



RONALD NAPOLITANO  
Assistant Attorney General  
Florida Bar No. 175130  
2002 N. Lois Ave. Suite 700  
Tampa, Florida 33607-2367  
(813) 873-4739

COUNSEL FOR RESPONDENT

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to Bruce P. Taylor, Assistant Public Defender, P.O. Box 9000-Drawer PD, Bartow, Florida 33831-9000, this 31st day of October, 2000.



COUNSEL FOR RESPONDENT



IN THE SUPREME COURT OF FLORIDA

REGINALD FRAZIER,

Petitioner,

v.

Case No.

STATE OF FLORIDA,

Respondent.

**INDEX TO APPENDIX OF EXHIBITS**

**COMES NOW** the Attorney General, by and through the undersigned Assistant Attorney General, who files this Appendix wherein Appellee has tabbed the first page of every appendix document and cross-referenced the index tab number to the appropriate item on the index:

- Exhibit A     Petitioner's Reply Brief on the Merits  
                  (State v. Sammy Cotton, FSC Case No. 94,996)
- Exhibit B     Answer Brief of Respondent on the Merits  
                  (State v. Sammy Cotton, FSC Case No. 94,996)
- Exhibit C     Opinion  
                  (Reginald Frazier v. State, 2DCA Case No.  
                  99-04293)