

ORIGINAL

IN THE SUPREME COURT OF FLORIDA

FILED
DEBBIE CAUSSEUX
FEB 25 2000
CLERK, SUPREME COURT
BY DJ

PHILLIP GRIMES,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

Supreme Court Case No. 00-350

2 DCA No. 98-4429

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,
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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,

ROBERT A. BUTTERWORTH
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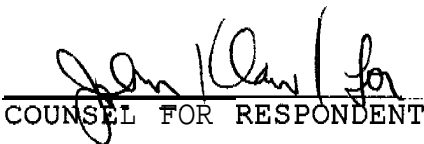


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CERTIFICATE OF SERVICE.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to Bruce P. Taylor, Assistant Public Defender, Polk County Courthouse, P.O. Box 9000 - Drawer PD, Bartow, Florida 33831 this 23rd day of February 2000.



COUNSEL FOR RESPONDENT

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

PHILLIP GRIMES,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)

CASE NO, 98-04429

Opinion filed December 22, 1999.

Appeal from the Circuit
Court for Polk County;
Robert E. Pyle, Judge.

James Marion Moorman, Public Defender,
and Bruce P. Taylor, Assistant Public Defender,
Bat-tow, for Appellant.

Robert A. Butterworth, Attorney General,
Tallahassee, and Helene S. Parnes and
John M. Klawikofsky, Assistants Attorney
General, Tampa, for Appellee.

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Public Defenders Office

PER CURIAM.

Affirmed. See Grant v. State, 24 Fla. L. Weekly 02627 (Fla. 2d DCA Nov.
24, 1999).

PARKER, A.C.J., GREEN, and NORTHCUTT, JJ., Concur.