

ORIGINAL

IN THE SUPREME COURT OF FLORIDA

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MAR 29 2000
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EDWARD PRITCH WALSH,
Petitioner,

vs.

CASE NO. SC00-622

STATE OF FLORIDA,
Respondent.
_____ /

JURISDICTIONAL BRIEF OF PETITIONER

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SECOND JUDICIAL CIRCUIT

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PRELIMINARY STATEMENT

This is a petition for discretionary review of the decision of the First District Court of Appeal in Walsh v. State, case no. 1D99-1529 (Fla. 1st DCA Feb. 21, 2000) (Appendix A) based on express and direct conflict with the decision of the Second District Court of Appeal in Walker v. State, 479 So.2d 274 (Fla. 2d DCA 1985) (Appendix B).

CERTIFICATE OF FONT SIZE

This brief was prepared using courier new 12 point, a font which is not proportionally spaced.

STATEMENT OF THE CASE AND FACTS

An Escambia County grand jury indicted Edward Pritch Walsh for the first degree murder of his father, the attempted first degree murder of his brother, and an aggravated assault on his mother. (R 1-3) The trial court declared Walsh incompetent to stand trial. (R 18-21) Florida State Hospital discharged Walsh and returned him to the Escambia County Jail. (R 22) The trial court found him competent to proceed to trial.

Walsh raised the defense of insanity at trial. During the State's case, the following facts about Walsh's mental condition and the offenses were introduced:

Rupert and Josephine Walsh adopted Edward when he was three years-old. (T1:118) There were two other children in the family, Jacqueline and Christopher. (T1:119) Edward suffered from mental problems. (T1: 128) At the time of trial, Edward was 34 years-old and except for some periods of time and times of hospitalizations, he had lived at home with Rupert and Josephine. (T1:126-127)

Edward's mental problems really started after he received a head injury in a motorcycle accident when he was 15 years-old. (T1:128-129) After the injury, Edward had times of extreme anger. (T1:129) He received psychiatric treatment and medication. (T1:130) The medication helped most of the time, except when Edward failed

to take it appropriately. (T1:130) Without the medication, Edward acted differently. (T1:130) As Josephine said, Edward would get crazy. (T1:131) They would hospitalize him. (T1:131) Edward was hospitalized many times. (T1:131)

In the early morning hours of August 30, 1997, Edward took a taxicab to his parents house. (T1:119) He had moved out the house about a month earlier. (T1:120) Josephine let Edward in the house. (T1:120) Edward asked for the keys to her car. (T1:121) She told him her car was broken. (T1:121) He asked for the key to his father's vehicle, and Josephine told him that was for his father to decide. (T1:121) Edward picked up two kitchen knives and came toward his mother. (T1:121-122)

Josephine could tell by Edward's behavior that he had not been taking his medication. (T1:132-133) He had never before threatened her in that manner. (T1:133) Additionally, when he became angry, Edward unzipped his pants, exposed his penis, and said, "I'm a man." (T1:132) Josephine said he had never before done anything like that. (T1:132-133) She knew he would not behave in that manner if he had been on his medication. (T1:133)

When Edward came toward her, Josephine was scared and shouted. (T1:122) Her husband, Rupert, came out and began to talk to Edward. (T1:122) Edward asked Rupert for the key to his truck, but Rupert

refused to give it to him. (T1:122) Josephine, at this point, ran to the neighbor's house. (T1:123)

Edward's brother, Christopher Walsh, was 28 years-old and he lived in the house with his parents. (T1:135-136) He came home around midnight, went to his room and fell asleep. (T1:136) Later, a booming noise awakened him. (T1:136) Christopher looked into his parent's room where he saw Edward stabbing his father. (T1:137) His father was in the jacuzzi inside the master bathroom. (T1:137) Christopher yelled at Edward and tried to grab him. (T1:137) Edward turned around, holding a knife in each hand. (T1:137) Christopher ran. (T1:137) Still holding both knives, Edward ran after him. (T1:137)

Christopher ran down the hall toward his bedroom. (T1:137-138) Edward was chasing him with both knives still in his hands. (T1:137-138) Christopher fell when he tripped over a pillow he had dropped in the hallway. (T1:138, 145) Edward tried to stab him, but Christopher managed to avoid being struck -- the knife point was hitting the carpet around him. (T1:138) Edward was over him, but Christopher managed to get him off. (T1:138) Christopher crawled on his hands and knees to the end of the hall and into his bedroom. (T1:138) Before he stood up, Christopher closed the bedroom door. (T1:138, 149) Edward was hitting the door, and Christopher saw the

blades of the knives stabbing through the middle of the door. (T1:139, 149) After getting the door locked, Christopher jumped out the window and went to his neighbor's house to call the police. (T1:139) During this entire time, Edward had never spoken a word. (T1:145)

After the State rested its case, the Defense also rested. (T2: 269-270) The State asked the court to strike the defense of insanity. (T2:270) Even though the defense presented no experts, the court ruled there was sufficient evidence presented during the State's case to raise the insanity defense. (T2:270-283) The defense move for a judgment of acquittal on the ground that sufficient evidence presented in the State's case raised a reasonable doubt as to Edward's sanity and that the State had failed to prove the defendant sane beyond a reasonable doubt. (T2:289) The court denied the motion for judgment of acquittal. (T2:290) The court instructed the jury on the insanity defense.

On appeal, the First District Court held that the evidence presented was insufficient to raise the defense of insanity, the trial court correctly denied the motion for judgement of acquittal and furthermore, the trial court erred in giving an insanity defense instruction to the jury. (App. A) Walsh v. State, case no. 1D99-1529 (Fla. 1st DCA Feb. 21, 2000). The First District Court

acknowledged that its decision contradicted the decision of the Second District Court in Walker v. State, 479 So.2d 274 (Fla. 2d DCA 1985). Ibid.

SUMMARY OF ARGUMENT

The First District Court of Appeal's decision in this case held that evidence of severe mental health problems and bizarre behavior at the time the offense is insufficient to raise a reasonable doubt as to the defendant's sanity unless also accompanied by opinion evidence that the defendant was insane. Walsh v. State, case no. 1D99-1529 (Fla. 1st DCA 2000). In the opinion, the First District Court acknowledged that the Second District Court of Appeal held to the contrary position in Walker v. State, 479 So.2d 274 (Fla. 2d DCA 1985). (Walsh, App. A) The opinion Walsh expressly and directly conflicts with the opinion in Walker. This Court has discretionary jurisdiction to review the instant case.

ARGUMENT

ISSUE PRESENTED

THE DECISION OF THE FIRST DISTRICT COURT OF APPEAL EXPRESSLY AND DIRECTLY CONFLICTS WITH THE DECISION OF THE SECOND DISTRICT COURT IN WALKER V. STATE, 479 SO.2D 274 (FLA. 2D DCA 1985), THEREBY GIVING THIS COURT DISCRETIONARY REVIEW JURISDICTION OVER PETITIONER'S CASE.

To invoke this Court's discretionary review jurisdiction on the basis of conflict between holdings of district courts, a petitioner must demonstrate "express and direct conflict" between the decision sought to be reviewed and the holdings of other district courts in other cases. See, Art. V, Sec. 3(b)(3) Fla. Const.; Fla. R. App. P. 9.030 (a)(2)(A)(iv); Jenkins v. State, 385 So.2d 1356 (Fla. 1980). The First District Court's decision in this case provides this conflict on the face of its opinion by acknowledging that the Second District Court of Appeal held to the contrary in Walker v. State, 479 So.2d 274. In the Walsh opinion, the First District Court wrote

...The evidence presented indicated that the appellant suffered from bipolar disorder, required medication to treat the disorder, became angry and erratic when he was not taking his prescribed medication, and may not have been taking his medication on the night the offenses were committed. However, no evidence was presented that because of his mental disorder, the appellant did not understand the nature and consequences of his actions, nor was evidence presented that, because of his mental disorder, the appellant did not know that his actions were wrong, even if he understood their nature and consequences. Contrary to our sister court's holding in

Walker v. State, 479 So.2d 274 (Fla. 2d DCA 1985), we find that such evidence is legally insufficient to raise a reasonable doubt in the minds of the jurors regarding the appellant's sanity at the time the offenses were committed....

Walsh v. State, case no. 1D99-1529 (Fla. 1st DCA 2000) (App. A)

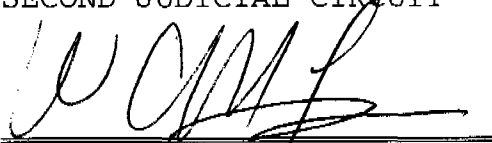
Resolution of this conflict is important to the criminal justice system since this is an issue which continue to occur.

CONCLUSION

Petitioner, Edward Pritch Walsh, asks this Court to exercise its discretion and to accept the instant case for review.

Respectfully submitted,

NANCY A. DANIELS
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SECOND JUDICIAL CIRCUIT

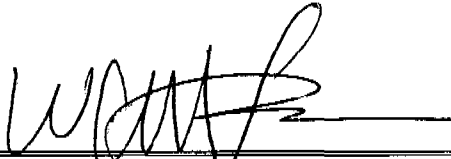
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by delivery to James W. Rogers, Assistant Attorney General, Criminal Appeals Division, The Capitol, Plaza Level, Tallahassee, Florida, 32301, and by U. S. Mail to appellant, Edward P. Walsh, #211101, Lake Correctional Institution, 19225 U.S. Highway 27, Clermont, Florida, 34711, on this 29 day of March, 2000.



W. C. McLAIN
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