

**ORIGINAL**

IN THE FLORIDA SUPREME COURT

EDWARD JESSE MEYERS,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

**FILED**  
THOMAS D. HALL

MAY 11 2000

CLERK, SUPREME COURT  
BY DHJ

Case No. SC00-967

DISCRETIONARY REVIEW  
OF THE SECOND DISTRICT COURT OF APPEAL,  
STATE OF FLORIDA

BRIEF OF RESPONDENT ON JURISDICTION

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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.

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STATEMENT OF THE CASE AND FACTS

The state agrees with Petitioner's statement of the case and facts with the following clarification:

The instant sentence of 15 years as a Prison Releasee Re-offender with a concurrent habitual offender sentence was imposed pursuant to an agreement between the court and Appellant over the state's objection. (I: 78: Supp: 105-106; 109) After an off the record discussion, the following occurred:

THE COURT: ... Mr. Lykes (defense counsel), do you have an announcement on behalf of Mr. Meyers?

Mr. Lykes: Yes, Your Honor. Pursuant to an agreed disposition, Mr. Meyers will withdraw his prior plea of not guilty and enter a plea of no contest.

THE COURT: Sir, I don't accept no contest.

MR. LYKES: Sorry. To guilty to both of the counts of this indictment, Your Honor, or information, Your Honor. And the sentence that he would receive would be 15 years DOC as a prison releasee reoffender concurrent with 10 years PCC. (Note by Respondent: This appears to be a typographical error, probably referring to VCC, violent career criminal.)

(Supp: 105-106)

SUMMARY OF THE ARGUMENT

The state agrees this Court has discretionary jurisdiction to review the decision of the Second District Court of Appeal in the

instant case pursuant to Fla. R. App. Pro 9.030(a)(2)(A)(i) (2000) because the decision construes the constitutional validity of the Prison Releasee Reoffender Statute.

ARGUMENT

ISSUE I: WHETHER THE DISTRICT COURT'S OPINION DECLARES A STATUTE VALID GIVES THIS COURT DISCRETIONARY JURISDICTION PURSUANT TO RULE 9.030(a)(2)(A)(i), FLA. R. APP. P. (2000).

Respondent agrees the opinion of the Second District Court of Appeal expressly declares the Prison Releasee Reoffender Statute (s. 775.082(8), Fla. Stat. (1997) valid by rejecting constitutional attacks on the statute based upon: 1. single subject; 2. separation of powers; 3. cruel and unusual punishment; 4. double jeopardy; 5. void for vagueness; 6. due process; 7. equal protection and 8. ex post facto based on its prior opinion in Grant v. State, 745 So.2d 519 (Fla. 2nd DCA 1999), review pending 99,164. This Court, therefore, has discretionary jurisdiction pursuant to Rule 9.030(a)(2)(A)(i), Fla. R. App. P. (2000).

Numerous cases are presently pending before this Court regarding the validity of this statute based upon the constitutional grounds raised by the petitioner. This Court has already heard oral arguments regarding these issues in this case on November 3, 1999, in the cases of McKnight v. State, 727 So.2d 314 (Fla. 3d DCA 1999), review granted 740 So.2d 528, and Cotton v. State, 728 So.2d 251 (Fla. 2d DCA 1998), review granted 737 So.2d 551 (Fla. 1999).

Grant v. State, 745 So.2d 519 (Fla. 2nd DCA 1999), the case relied on the by Second District Court of Appeal, is pending before this Court in case number 99,164.

CONCLUSION

This Court may exercise its discretionary jurisdiction to review the Second District Court of Appeal opinion finding the Prison Releasee Reoffender statute is not unconstitutional.

Respectfully submitted,  
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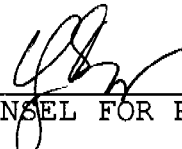


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to Timothy J. Ferreri, Assistant Public Defender, P.O. Box 9000-Drawer PD, Bartow, Florida 33831-9000, this 9th day of May, 2000.



COUNSEL FOR RESPONDENT