

IN THE SUPREME COURT OF FLORIDA

DEPARTMENT OF HIGHWAY
SAFETY and MOTOR VEHICLES,

Appellant,

v.

CASE NO. SC02-386

ROBERT P. CRITCHFIELD,

Appellee.

-----/

On Appeal of Right from the District Court
of Appeal, Fifth District of Florida

REPLY BRIEF OF APPELLANT

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL

CHARLIE MCCOY
ASSISTANT ATTORNEY GENERAL
FLORIDA BAR NO. 333646

OFFICE OF THE ATTORNEY GENERAL
THE CAPITOL, SUITE PL-01
TALLAHASSEE, FL 32399-1050
(850) 414-3300

Counsel for Appellant

TABLE OF CONTENTS

<u>Item</u>	<u>Page</u>
TABLE OF CONTENTS.i
TABLE OF CITATIONS.	i
ARGUMENT.	1

ISSUE

WHETHER CH. 98-223, LAWS OF FLORIDA, INCLUDES
MORE THAN ONE SUBJECT, IN VIOLATION OF ART. III,
§6, FLORIDA CONSTITUTION.
. . .1

CONCLUSION2
CERTIFICATE OF SERVICE3
CERTIFICATE OF COMPLIANCE WITH RULE 9.210 3

TABLE OF CITATIONS

Other Authority
Pages

Art. III, §6, Fla. Const.	1,2
-----------------------------------	-----

Ch. 98-223, Laws of Florida
1,2

ARGUMENT

ISSUE

WHETHER CH. 98-223, LAWS OF FLORIDA, INCLUDES MORE THAN ONE SUBJECT, IN VIOLATION OF ART. III, §6, FLORIDA CONSTITUTION.

Critchfield's answer makes the same mistake as did the trial court and the Fifth District, respectively. Instead of deconstructing ch. 98-223, Laws of Florida, both should have placed equal effort into finding a common thread. That thread--conditions on driving a motor vehicle effected through license suspension, noncriminal infractions, etc.--is but one thread; and does not violate Art. III, §6 of the Florida Constitution.

Noting the purposes of the "single subject rule," Critchfield speaks to avoidance of "surprise or fraud by means of provisions in bills of which the title gives no intimation." (answer brief, p.4). At no time below did Critchfield complain of any title defect. The order under review did not broach this point, much less find a defect. Critchfield is distracting the Court with a non-issue.

On page 7, Critchfield repeats the undisputed: that not all sections of ch. 98-223 mention both "worthless checks" and "driver's license" (or, as DHSMV would add, "driving under the influence"). However, no case has ever held that all otherwise-

related topics in a bill must be mentioned in every section in order to comprise but one subject.

Critchfield overlooks an important difference between ch. 98-223 and the bills at issue in the cases he advances. Chapter 98-223 addresses a privilege (driving) upon which many diverse conditions can be placed. One of those conditions is a ban on hardship licenses for persons with at least 4 convictions for DUI. Critchfield, affected by this ban, is not subject to the one criminal penalty in ch. 98-223. He cannot be heard to complain that ch. 98-223 subjected him to new criminal penalties or civil sanctions.¹

It is too easy to assume the Legislature, acting with haste toward the end of the session, indulged in "logrolling." Such assumption ignores well-established law that courts are to presume a law is constitutional until it is clearly shown to be otherwise. The better assumption is that the Legislature, as the last day of session approached, placed two topics (worthless checks and drivers licenses) in a single bill to save time. The changes to the law regarding the two topics are sufficiently related to comprise but one subject.

CONCLUSION

¹Recall that the trial court held Critchfield could apply for a hardship license, not that he necessarily could obtain one.

The Court should find ch. 98-223 does not violate the single-subject rule, and reverse the Fifth DCA.

Respectfully submitted,

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL

CHARLIE MCCOY

Assistant Attorney General
Florida Bar No. 333646

Office of the Attorney General
The Capitol, Suite PL-01
Tallahassee, FL 32399-1050
(850) 414-3300

CERTIFICATE OF SERVICE

I certify a true copy of this reply brief has been furnished by U.S. Mail to **MICHAEL J. SNURE**, counsel for Appellee, Kirkconnell et al., P.A., 1150 Louisiana Avenue, Suite 1, P.O. Box 2728, Winter Park, Florida 32790-2728; this ___ day of March, 2002.

Charlie McCoy

Assistant Attorney General

CERTIFICATE OF COMPLIANCE WITH RULE 9.210

I certify Courier New 12-point, non-proportionately spaced type is used in this brief, in accord with Fla.R.App.P. 9.210(a)(2).

<charles>critchfield\fsc\fscreply.wpd