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IN THE SUPREME COURT OF FLORIDA

JERMAINE C. JACKSON,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

Case No. SC14-842

(L.T. No. 4D11-3174)

JURISDICTIONAL BRIEF OF RESPONDENT

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PRELIMINARY STATEMENT

Respondent, the State of Florida, was the Appellee in the Fourth District Court of Appeal (DCA) and the prosecuting authority in the trial court, and will be referenced in this brief as Respondent, the prosecution, or the State. Petitioner, Jermaine C. Jackson, was the Appellant in the DCA and the defendant in the trial court, and will be referenced in this brief as Petitioner or by proper name.

"PJB" will designate Petitioner's Jurisdictional Brief. That symbol is followed by the appropriate page number.

The symbol "A" will be used to denote the appendix attached hereto.

A bold typeface will be used to add emphasis. Italics appeared in original quotations, unless otherwise indicated.

STATEMENT OF THE CASE AND FACTS

The pertinent history and facts are set out in the decision of the district court, which can be found at Jackson v. State, 39 Fla.L.Weekly D635 (Fla. 4th DCA March 26, 2014) (Appendix A).

The district court held that §958.04(1)(b), Fla. Stat. (2008) does not violate equal protection or substantive due process as there is no fundamental right to be sentenced under Florida's Youthful Offender Act. Sentencing under the act is discretionary. As there is no fundamental right involved, the statute is not subject to strict scrutiny and must only pass the

rational basis test. The legislature's expressed intent in creating the youthful offender statute was to prevent young offenders' association with older and more experienced criminals during the terms of their confinement. The district court found that limiting inclusion into a youthful offender program by the offender's age at time of sentencing could serve to ensure the population in such a program truly remains "youthful" and therefore establishes a rational basis. The district court further found the statute only has an indirect effect on how a defendant actually defends him or herself at trial.

SUMMARY OF ARGUMENT

While this Court does have discretionary jurisdiction to review the District Court's opinion under Article V, §3(b)(3) of the Florida Constitution, the State submits the Court should decline to exercise its discretionary jurisdiction. The District Court thoroughly examined the issue, the opinion is well reasoned, and nothing in the opinion is exceptional or objectionable.

ARGUMENT

PETITIONER HAS FAILED TO ESTABLISH THE COURT SHOULD EXERCISE ITS DISCRETIONARY JURISDICTION TO REVIEW THE DECISION OF THE DISTRICT COURT WHICH HELD FLORIDA STATUTE 958.04(1)(B) CONSTITUTIONAL AND DOES NOT VIOLATE EQUAL PROTECTION OR SUBSTANTIVE DUE PROCESS (RESTATED)

Petitioner contends this Court should exercise its

discretionary jurisdiction pursuant to Article V, Section 3(b)(3) of the Florida Constitution (PJB 1), which parallels Fla.R.App.P. 9.030(a)(2)(A)(i). Article V, §3(b)(3) provides: "The supreme court ... [m]ay review any decision of a district court of appeal that expressly declares valid a state statute (e.s.)".

The opinion below did pass on the validity of §958.04(1)(b), Fla. Stat. when it rejected Petitioner's equal protection and substantive due process challenges to the statute, however, Respondent submits that this Court should nonetheless decline to exercise its discretionary jurisdiction. There is no reason why this Court should treat the district courts as mere intermediate courts whose decisions are subject to review by this court any time there is discretionary jurisdiction.

In Ansin v. Thurston, 101 So.2d 808, 810 (Fla. 1958), this Court explained:

"It was never intended that the district courts of appeals should be intermediate courts. The revision and modernization of the Florida judicial system at the appellate level was prompted by the great volume of cases reaching the Supreme Court and the consequent delay in the administration of justice. The new article embodies throughout its terms the idea of a Supreme Court which functions as a supervisory body in the judicial system for the State, exercising appellate power in certain specified areas essential to the settlement of issues of public importance and preservation of uniformity of principle and practice, with review by the district courts in most instances being final and absolute.

To fail to recognize that these are courts primarily of final appellate jurisdiction and to allow such courts to become intermediate courts of appeal would result in a condition far more detrimental to the general welfare and the speedy and efficient administration of justice than that which the system was designed to remedy."

Further, the decision below thoroughly examines the issue, is well reasoned and nothing in it is exceptional or objectionable. Moreover, the statute at issue has been in effect statewide since 2008 and subject to review by all five district courts. Should any one of those courts expressly declare it invalid in the future, there will be direct and express conflict and mandatory review pursuant to Art. V, sect. 3(b)(1), Fla. Const. Accordingly, this Court should decline to exercise its discretionary jurisdiction in this case.

CONCLUSION

WHEREFORE, based on the foregoing arguments and the authorities cited therein, Respondent respectfully requests this Court decline to exercise discretionary jurisdiction.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing "Respondent's Brief on Jurisdiction" has been furnished to **Nan Ellen Foley, Office of the Public Defender, 421 Third Street, West Palm Beach, FL 33401, via e-mail at appeals@pd15.org**, this 30th day of May, 2014.

CERTIFICATE OF COMPLIANCE

I certify that this brief was computer generated using

Courier New 12 point font.

Respectfully submitted,

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