

IN THE SUPREME COURT OF FLORIDA

CLAUDIO J. POILLOT,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

CASE NO. SC15-1691

ON DISCRETIONARY REVIEW FROM
THE FIFTH DISTRICT COURT OF APPEAL

JURISDICTIONAL BRIEF OF RESPONDENT

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Cases:

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State v. Poillot,
2015 WL 4660119 (Fla. 5th DCA Aug. 7, 2015) ibid.

State v. Williams, 918 So. 2d 400 (Fla. 2d DCA 2006) 3,4

Other:

Art. V, § (3)(b)(3), Fla. Const. 3

§ 945.091, Fla. Stat. 4

§ 951.24, Fla. Stat. 4

STATEMENT OF FACTS

The facts of this case were set forth in the opinion below as follows:

Poillot is a prisoner in the custody of the State of Florida Department of Corrections ("DOC") and was a participant in a work-release program, which permitted him to work outside of the correctional facility from 6:00 a.m. to 6:00 p.m. On July 29, 2014, he left the Kissimmee Community Work Release Center and timely reported to work at JS & Son Construction. Shortly thereafter, Poillot left his place of employment without permission and was unaccounted for until he timely returned to the work-release center before 6:00 p.m., at which time he was placed under arrest for escape.

* * *

Pursuant to Florida Rule of Criminal Procedure 3.190(c)(4), Poillot filed a motion to dismiss, arguing that even though he "deviated from his work assignment," he was not "confined" during the 12 hours he was released to work in the work-release program, and therefore, the State was unable to establish a prima facie case of escape under the undisputed facts. In response, the State filed two traverses to the motion, asserting that Poillot was no longer on authorized work release because his unauthorized departure from employment at approximately 6:10 a.m. that day resulted in both his termination from employment by his employer and later revocation of his work release by the DOC, all of which occurred prior to Poillot's return to the work-release facility. In the alternative, the State argued that even if Poillot was on authorized release, he was still confined when he left his employment because the work-release program was an extension of his confinement. After a hearing on the motion to dismiss, the trial court ultimately granted Poillot's motion.

State v. Poillot, 2015 WL 4660119, 40 Fla. L. Weekly D1845 (Fla. 5th DCA Aug. 7, 2015).

SUMMARY OF ARGUMENT

This Court should decline to exercise jurisdiction here, where the lower court's decision does not expressly declare a statute valid in the face of a constitutional challenge, but merely applies the plain language of the statute to the facts before it. Further, the lower court's opinion does not expressly and directly conflict with any other decision.

ARGUMENT

THIS COURT SHOULD DECLINE TO
EXERCISE JURISDICTION.

Upholding a State Statute

This Court "may" exercise jurisdiction under article V, section (3) (b) (3) of the Florida Constitution where a decision of a district court "expressly declares valid a state statute." The lower court did not do so here. While Petitioner argues that the court rejected a due process challenge to the statute (and violated his due process rights in construing the statute), no such challenge is addressed in the court's opinion. Rather, the court simply applied the plain language of the statute to the facts before it. There is no basis to exercise jurisdiction over this routine decision.

Conflict

This Court has jurisdiction under article V, section (3) (b) (3) of the Florida Constitution where a decision of a district court "expressly and directly conflicts" with a decision of this Court or another district court. This Court has repeatedly held that such conflict must be express and direct, that is, "it must appear within the four corners of the majority decision." Reaves v. State, 485 So. 2d 829, 830 (Fla. 1986). Petitioner has failed to demonstrate that such a conflict exists here.

Petitioner contends that the lower court's decision conflicts with the decision of the Second District Court of Appeal in State

v. Williams, 918 So. 2d 400 (Fla. 2d DCA 2006). There, the court stated that a defendant who failed to timely report to work while on work release did not commit the crime of escape under section **951.24** of the Florida Statutes. Id. at 401-02.

Here, in contrast, the court concluded that Petitioner had failed to remain with the "extended limits of confinement" as defined in section **945.091**, Florida Statutes. Poillot, 2015 WL 4660119 at *2. Section 951.24, construed in Williams, does not include the specific "extending confinement" language of section 945.091, discussed in Poillot.

Because the two cases discuss entirely different statutes, with different definitions of confinement, there is no express and direct conflict between the two, and no basis for jurisdiction here.

CONCLUSION

Based on the arguments and authorities presented herein, Respondent respectfully requests this honorable Court decline to accept jurisdiction of this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above Jurisdictional Brief has been furnished to Steven N. Gosney, counsel for Petitioner, 444 Seabreeze Blvd., Ste. 210, Daytona Beach, Florida 32118, by email to appellate.efile@pd7.org and gosney.steve@pd7.org, this 15th day of October, 2015.

CERTIFICATE OF COMPLIANCE

The undersigned counsel certifies that this brief was typed using 12 point Courier New, a font that is not proportionately spaced.

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