

IN THE SUPREME COURT OF FLORIDA

CASE NO. 64,403

THE STATE OF FLORIDA,

Petitioner,

vs.

J. B., a juvenile,

Respondent.

FILED
CLERK OF THE COURT
By *m*

ON CERTIFIED QUESTION FROM THE
DISTRICT COURT OF APPEAL OF FLORIDA,
THIRD DISTRICT

BRIEF OF RESPONDENT ON MERITS

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INTRODUCTION

The Respondent, the juvenile J.B., was the Respondent in the trial court and the Appellee before the Third District Court of Appeal. The Petitioner, the State, was the Petitioner in the trial court and the Appellant before the Third District.

STATEMENT OF THE CASE

The State's appeal, from a juvenile court order dismissing a petition of delinquency which had been filed against the Respondent, was dismissed by the Third District Court of Appeal on September 27, 1983. State v. J.B., 449 So.2d 284 (Fla. 3d DCA 1983). The District Court certified the following question as one of great public importance:

"Does the State have the authority to file plenary appeals in juvenile cases, and, if not, may this court review by certiorari an order dismissing a petition for delinquency?"

Id. at 284.

By order dated October 18, 1983, this Court granted consolidation of this and several other cases under State v. J.M., et al, Case Nos. 64,395-64,403. Briefs by the parties had previously been filed under the consolidated cases. The instant brief responds to the brief recently filed by the Petitioner in this case.

ARGUMENT

THE ABSENCE OF REVIEW BY THE STATE OF ADVERSE
JUVENILE COURT ORDERS HAS BEEN SETTLED BY THIS
COURT'S RECENT DECISIONS.

The question certified by the Third District has been dispositively answered by this Court's recent decisions in State v. C.C., 476 So.2d 144 (Fla. 1985) and State v. G.P., 476 So.2d 1272 (Fla. 1985), which respectively hold that the State does not have the right of appeal of adverse juvenile court decisions, and has no greater right to obtain such review by certiorari. The dismissal of the State's appeal by the Third District was therefore eminently correct, and should be approved upon authority of State v. C.C. and State v. G.P.

CONCLUSION

The question certified by the Third District has been conclusively answered by this Court in State v. C.C., 476 So.2d 144 (Fla. 1985) and State v. G.P., 476 So.2d 1272 (Fla. 1985) and the dismissal of the appeal below should be approved upon authority of same.

Respectfully submitted,

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By: 
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed to MICHAEL J. NEIMAND, Assistant Attorney General, Office of the Attorney General, 401 Northwest 2nd Avenue, Miami, Florida, this 18th day of December, 1985.

A handwritten signature in black ink, appearing to read "Bruce A. Rosenthal". The signature is written in a cursive style with a large initial "B".

BRUCE A. ROSENTHAL
Assistant Public Defender