w/o o/a.
OTT

FILED
SID J. WHITE
MAR 8 1985
CLERK, SUPREME COURT
By
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

D. A. E., a child, Petitioner,	)	
vs.	)	CASE NO. 66,090
STATE OF FLORIDA, Respondent.	)	

RESPONDENT'S BRIEF ON THE MERITS

JIM SMITH
ATTORNEY GENERAL

RICHARD B. MARTELL
ASSISTANT ATTORNEY GENERAL
125 N. Ridgewood Avenue
Fourth Floor
Daytona Beach, Florida 32014
(904) 252-2005

COUNSEL FOR RESPONDENT

TOPICAL INDEX

	PAGES
SUMMARY OF ARGUMENT	1
ARGUMENT	
THE PROVISIONS OF ARTICLE V, SECTION 4(b)(1), FLORIDA CONSTITUTION (1980), WHICH ARE SELF-EXECUTING, ALLOW FOR APPEAL BY THE STATE FROM FINAL ORDERS IN JUVENILE PROCEEDINGS; IN THE ALTERNATIVE, REVIEW OF SUCH ORDERS IS AVAILABLE THROUGH WRITS OF CERTIORARI	2
CONCLUSION	3
CERTIFICATE OF SERVICE	3

AUTHORITIES CITED

CASES — PAGES

State v. C.C., 449 So.2d 280 (Fla. 3d DCA 1983), petition for review granted, Case No. 64,354 1,2

State v. D.A.E., 456 So.2d 569 (Fla. 5th DCA 1984) 1

State v. G.P., 429 So.2d 786 (Fla. 3d DCA 1983), petition for review granted, Case No. 63,613 1

State v. J.P.W., 433 So.2d 616 (Fla. 4th DCA 1983), petition for review granted, Case No. 63,981 1,2

OTHER AUTHORITIES CITED

Article V, § 4(b)(1) Fla. Const. (1980) 1,2

Rule 9.030(b)(3) Fla. R. App. P 1

SUMMARY OF ARGUMENT

The decision below, State v. D.A.E., 456 So.2d 569 (Fla. 5th DCA 1984), should be approved, in that the Fifth District correctly found that the state had the right to appeal a final order dismissing a juvenile proceeding, on speedy trial grounds. Such right to appeal final orders in juvenile proceedings derives from article V, section 4(b)(1) Florida Constitution (1980), which respondent contends is a self-executing provision, as well as from sections 924.05, 924.07 and 925.08, Florida Statutes. Further, to the extent that appeal by the state is not authorized in such situation, it should be recognized that review by certiorari is available, pursuant to Florida Rule of Appellate Procedure 9.030(b)(3).

The position of the Fifth District is in accordance with that of the Fourth. See State v. J.P.W., 433 So.2d 616 (Fla. 4th DCA 1983), petition for review granted, J.P.W. v. State, Case No. 63,981. In addition to D.A.E. and J.P.W., two other cases raising identical issues are presently pending before this court. See State v. G.P., 429 So.2d 786 (Fla. 3d DCA 1983), petition for review granted, Case No. 63,613; State v. C.C., 449 So.2d 280 (Fla. 3d DCA 1983), petition for review granted, Case No. 64,354. Pursuant to this court's order of January 25, 1985, respondent adopts, and includes in an accompanying appendix, the briefs filed by the state in J.P.W. and C.C.

ARGUMENT

THE PROVISIONS OF ARTICLE V, SECTION 4(b)(1), FLORIDA CONSTITUTION (1980), WHICH ARE SELF-EXECUTING, ALLOW FOR APPEAL BY THE STATE FROM FINAL ORDERS IN JUVENILE PROCEEDINGS; IN THE ALTERNATIVE, REVIEW OF SUCH ORDERS IS AVAILABLE THROUGH WRITS OF CERTIORARI

Pursuant to this court's order of January 25, 1985, respondent hereby adopts the briefs on the merits filed by the State of Florida in J.P.W. v. State, Case No. 63,981, and State v. C.C., Case No. 64,354, as its argument in the instant appeal. Such briefs are included as an appendix to this pleading.

CONCLUSION

WHEREFORE, for the aforementioned reasons, respondent urges this court to approve the decision below in all respects.

Respectfully submitted,

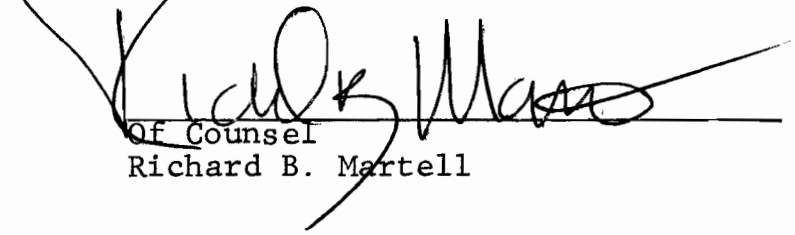
JIM SMITH
ATTORNEY GENERAL

RICHARD B. MARTELL
ASSISTANT ATTORNEY GENERAL
125 N. Ridgewood Avenue
Fourth Floor
Daytona Beach, Florida 32014
(904) 252-2005

COUNSEL FOR RESPONDENT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been furnished by mail to Daniel J. Schafer, Assistant Public Defender, 1012 S. Ridgewood Avenue, Daytona Beach, Florida 32014, this 5 day of March, 1985.



Of Counsel
Richard B. Martell