

IN THE FLORIDA SUPREME COURT

**FILED**  
SID J. WHITE

DEC 22 1986

CLERK SUPREME COURT  
By: *J. M. Moorman*  
Deputy Clerk

ROBERT JOE LONG :  
Appellant, :  
vs. :  
STATE OF FLORIDA, :  
Appellee. :

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Case No. 67,109

APPEAL FROM THE CIRCUIT COURT  
IN AND FOR PASCO COUNTY  
STATE OF FLORIDA

REPLY BRIEF OF APPELLANT

JAMES MARION MOORMAN  
PUBLIC DEFENDER  
TENTH JUDICIAL CIRCUIT

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PRELIMINARY STATEMENT

Appellant, ROBERT JOE LONG, relies on his Initial Brief to respond to the State's Answer Brief except for the following additions regarding Issue I.

ARGUMENT

ISSUE I

ARGUMENT IN REPLY TO THE STATE AND  
IN SUPPORT OF THE PROPOSITION THAT  
THE TRIAL COURT ERRED IN ADMITTING  
LONG'S CONFESSION IN EVIDENCE, SINCE  
THE CONFESSION WAS OBTAINED DURING  
CUSTODIAL INTERROGATION WHICH PER-  
SISTED AFTER LONG HAD ASSERTED HIS  
RIGHT TO REMAIN SILENT AND REQUESTED  
COUNSEL.

On page 11 of the State's brief, the contention is made that Long's waiver of his rights concerning the [REDACTED] case interrogation constitutes a waiver for the murder case interrogation. This position is without merit. Contrary to the State's assertion, S.T.N. v. State, 484 So.2d 616 (Fla.4th DCA 1986), does not support such a principle.

In S.T.N., the defendant waived his rights concerning a particular larceny and then spontaneously began talking about a second larceny. There was no police questioning about the second larceny. There was no deliberate ploy to mislead the defendant into confessing to the second crime. S.T.N. is distinguishable and does not control the instant case. In any event, the United States Supreme Court will probably resolve this issue this term in Colorado v. Spring, 54 U.S.L.W. 3738 (1986).

On page 12 of its brief, the State submits that the detectives' comments and actions after Long's request for counsel is comparable to the statements the detective made in King v. State, 436 So.2d 50 (Fla.1983) after an equivocal request for counsel. Initially, Long's request was not necessarily equivocal. Similar

remarks have been deemed sufficiently clear requests. See, Singleton v. State, 344 So.2d 911,912 (Fla.3rd DCA 1977) ("Maybe I better ask my mother if I should get me [an attorney]"); Wentela v. State, 290 N.W.2d 312,316 (Wisc.1979) (I think I need an attorney" or "I think I should see an attorney"); People v. Traubert, 608 P.2d 342 (Colo.1980) ("I think I need to see an attorney"); State v. Blakney, 605 P.2d 1903 (Mont.1979) ("Maybe I should have an attorney"). If Long's remarks are considered an equivocal request, Detective Price's comments were not within the parameters of clarifying the request and were not comparable to the statements made in King. The detective in King merely stated his purpose -- to talk about a matter which the defendant had previously discussed with other officers. King, 436 So.2d at 53. In contrast, Detective Price admitted that he tried to induce further admissions and to prevent Long from thinking about a lawyer. (R847,850) Price lied and told Long that the line of inquiry had not changed when in fact it had. (R846,878) Price asked Long why he would need an attorney. (R856,860) Then, using yet another lie, Price overstated the amount of evidence accumulated against Long and told him the case was already made against him. (R854) Price's remarks constituted further interrogation about the offense in violation of the Fifth Amendment.


CONCLUSION

Upon the reasons and authorities expressed in his Initial Brief and this Reply Brief, Appellant asks this Court to reverse his case for a new trial, or alternatively, to reduce his death sentence to life imprisonment.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished to the Attorney General's Office, Park Trammell Building, 1313 Tampa Street, 8th Floor, Tampa, Florida, 33602, by mail on this 19th day of December, 1986.

  
W. C. McLain