

Supreme Court of Florida

CORRECTED OPINION

Nos. 68,932 & 68,522

ROBERT EDWARD SPOONER,
Petitioner,

vs.

DEPARTMENT OF CORRECTIONS,
Respondent.

MAURICE SKOBLOW, Petitioner,

vs.

AMERI-MANAGE, INC., et al.,
Respondent.

[September 24, 1987]

OVERTON, J.

The First District Court of Appeal, in Spooner v. Department of Corrections, 488 So. 2d 897 (Fla. 1st DCA 1986), certified the following question to this Court:

Has the State of Florida, pursuant to Section 768.28, Florida Statutes (1983), waived its Eleventh Amendment and state common law immunity and consented to suits against the State and its agencies under 42 U.S.C. § 1983?

Id. at 898.

The above case was consolidated with Skoblow v. Ameri-Manage, Inc., 483 So. 2d 809 (Fla. 3d DCA 1986), which concerns the identical issue, without certification of the question. We have jurisdiction. Art. V, § 3(b)(4).

We answer the question in the negative for the reasons expressed in our recent decision in Hill v. Department of Corrections, No. 69,016 (Fla. Sept. 24, 1987).

We approve the decision of the First District Court of Appeal in Spooner and that of the Third District Court of Appeal in Skoblow, holding the state immune under the eleventh amendment and the common law from suits arising under the federal Civil Rights Act, 42 U.S.C. 1983.

It is so ordered.

McDONALD, C.J., and EHRLICH, SHAW, GRIMES and KOGAN, JJ., Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

Two Consolidated Cases

An Application for Review of the Decision of the District Court
of Appeal - Certified Great Public Importance

First District - Case No. BF-357

F. Kendall Slinkman, West Palm Beach, Florida; and Edna L.
Caruso, P.A., West Palm Beach, Florida,

for Petitioner, Spooner

Robert A. Butterworth, Attorney General, and Mitchell D. Franks,
Chief Trial Counsel and Thomas H. Bateman, III, Assistant Attorney
General, Tallahassee, Florida,

for Respondent, Department of Corrections

Ira J. Kurzban of Kurzban, Jurzban and Weinger, Miami, Florida;
and Joel V. Lumer, Miami, Florida,

for National Emergency Civil Liberties Committee, Amicus Curiae

Stephen T. Maher, Coral Gables, Florida; and Sharon L. Wolfe,
Miami, Florida,

for American Civil Liberties Union Foundation of
Florida, Inc., Amicus Curiae

And An Application for Review of the Decision of the District
Court of Appeal - Direct Conflict of Decisions

Third District - Case No. 85-1741

Robert Weisberg of Lipman & Weisberg, P.A., Miami, Florida; and
Sharon L. Wolfe of Cooper, Wolfe & Bolotin, P.A., Miami, Florida,

for Petitioner, Skoblow

Robert A. Butterworth, Attorney General, and Mitchell D. Franks,
Chief Trial Counsel and Craig Willis, Assistant Attorney
General, Tallahassee, Florida,

for Respondents, Ameri-Manage, Inc., et al.