

DA 11-9-89

IN THE SUPREME COURT OF FLORIDA

FILED

SID J. WHITE

SEP. 8 1989

CLERK, SUPREME COURT

By [Signature]  
Deputy Clerk

DONALD WALDRUP,  
Petitioner,

CASE NO.: 74,012

vs.

RICHARD DUGGAR, Secretary,  
Florida Department of  
Corrections,

Respondent.  
\_\_\_\_\_ /

REPLY BRIEF OF PETITIONER

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ISSUE PRESENTED

WHETHER THE 1983 AMENDMENT OF SECTION 944.275, FLORIDA STATUTES, REDUCING WORK OR INCENTIVE GAIN-TIME FROM A POTENTIAL THIRTY-SEVEN DAYS PER MONTH TO A POTENTIAL TWENTY DAYS PER MONTH, VIOLATES THE EX POST FACTO PROHIBITION OF THE UNITED STATES CONSTITUTION WHEN APPLIED TO A PRISONER SERVING A SENTENCE FOR A CRIME WHICH OCCURRED PRIOR TO THE EFFECTIVE DATE OF THE 1983 AMENDMENT.

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Respondent has raised the same basic argument before this Court as was raised before the Eleventh Circuit, United States Court of Appeals, in Raske v. Martinez, Case No. 88-3101, (11th Cir., July 11, 1989). That argument, of course, is that work on incentive gain-time is constitutionally distinguishable from basic gain-time. Rather than belabor the point, Petitioner

will simply rely upon the well-reasoned opinion of Judge Tjoflat in Raske, rejecting this argument.

Respectfully submitted,



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ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Reply Brief of Petitioner has been furnished to Susan A. Maher, Assistant Attorney General, Department of Legal Affairs, The Capitol, Suite 1502, Tallahassee, Florida 32399-1050 and to Donald Waldrup, #637862, Box 350, Avon Park Correctional Institutional, P. O. Box 1100, Avon Park, Florida 33825-1100, this 8 day of September, 1989.



MICHAEL E. ALLEN