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ISSUE

WHETHER SECTION 775.084(1)(A)1, FLORIDA STATUTES (SUPP. 1988), WHICH DEFINES HABITUAL FELONY OFFENDERS AS THOSE WHO HAVE "PREVIOUSLY BEEN CONVICTED OF TWO OR MORE FELONIES," REQUIRES THAT EACH OF THE FELONIES BE COMMITTED AFTER CONVICTION FOR THE IMMEDIATELY PREVIOUS OFFENSE?

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IN THE SUPREME COURT OF FLORIDA

STATE OF FLORIDA,

Petitioner,

v.

CASE NO. 78,90

ARTHUR FORBES,

Respondent.

RESPONDENT'S BRIEF ON THE MERITS

PRELIMINARY STATEMENT

Respondent, Arthur Forbes, will be referred to herein as "Respondent". Petitioner, the State of Florida, will be referred to herein as either "Petitioner" or "the State". References to the record on appeal will be referred to herein by the symbol "R" followed by the appropriate page number(s).

STATEMENT OF THE CASE AND FACTS

Respondent adopts Petitioner's Statement of Case and Facts.

SUMMARY OF ARGUMENT

Due to the brevity of the argument herein, a formal summary of the argument will be omitted.

ARGUMENT

ISSUE

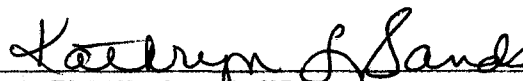
WHETHER SECTION 775.084(1)(A)1, FLORIDA STATUTES (SUPP. 1988), WHICH DEFINES HABITUAL FELONY OFFENDERS AS THOSE WHO HAVE "PREVIOUSLY BEEN CONVICTED OF TWO OR MORE FELONIES," REQUIRES THAT EACH OF THE FELONIES BE COMMITTED AFTER CONVICTION FOR THE IMMEDIATELY PREVIOUS OFFENSE.

Respondent recognizes that the Court's opinion in Barnes v. State, 17 FLW S119 (Fla. February 20, 1992) (rehearing pending), controls the issue in this case but notes that rehearing is still pending.

CONCLUSION

Respondent acknowledges that this case will be governed by the ultimate outcome in Barnes v. State, 17 FLW S119 (Fla. February 20, 1992) (rehearing pending).

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by mail to Bradley R. Bischoff, Assistant Attorney General, The Capitol, Tallahassee, Florida, 32399-1050 and to Mr. Arthur Forbes, # 796683 NCFL, Tomoka Correctional Institution, 3950 Tiger Bay Road, Daytona Beach, FL 32124, on this 27th day of April, 1992.


KATHRYN L. SANDS