

IN THE SUPREME COURT OF FLORIDA

GARRETT STATLER,

Petitioner,

v.

Case No. SC21-119

STATE OF FLORIDA,

Respondent.

_____ /

MOTION TO STRIKE THE JURISDICTIONAL BRIEF OF PETITIONER
AND TOLL THE TIME FOR FILING THE STATE'S ANSWER BRIEF

Respondent, the State of Florida, very respectfully requests that this Honorable Court strike Petitioner's Jurisdictional Brief; in support of its request, Respondent states the following:

1. Petitioner is seeking to invoke the Supreme Court's jurisdiction pursuant to Article V, section 3(b)(1), to review a decision by the First District in Statler v. State, ---- So. 3d ----, 2020 WL 7690347 (Fla. 1st DCA Dec. 28, 2020). The opinion of the lower court was confined to whether Section 794.011(5)(b), Florida Statutes, was facially unconstitutional for a lack of a mens rea requirement.

2. The principle is well-settled that for purposes of resolving the existence of discretionary jurisdiction, the Court is "confined to

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consider only those facts contained within the district court’s majority opinion.” Wells v. State, 132 So. 3d 1110, 1111 (Fla. 2014) (citing to Reaves v. State, 485 So. 2d 829 (Fla. 1986); see Fla. R. App. P. 9.120(d).

3. Petitioner, despite the established nature of this principle, has improperly, repeatedly, and selectively referred to matters found nowhere within the district court’s majority opinion —a practice this Honorable Court has aptly described as “pointless and misleading.” Reaves, 485 So. 2d at 830 n.3.

WHEREFORE, the Respondent very respectfully requests (a) that Petitioner’s Jurisdictional Brief be stricken, (b) that Petitioner be directed to file an amended brief that includes no references to matters outside of the four corners of the First District’s opinion, and (c) that the time for Respondent to file its response be tolled.

CERTIFICATE OF SERVICE

I certify that the foregoing was furnished to the following through the Court’s e-Filing Portal on 26 February 2021: Glen P. Gifford, Esq., at glen.gifford@flpd2.com.

CERTIFICATE OF COMPLIANCE

I certify that the foregoing was prepared in Bookman Old Style 14-point font and contains 402 words, therefore satisfying the provisions of rule 9.045, Florida Rules of Appellate Procedure.

Respectfully submitted and certified,

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