

(02G.)

IN THE SUPREME COURT OF FLORIDA

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DRB

DOUGLAS R. BROWN,

Petitioner,

BY _____

v.

CASE NO.: SC09-1159

STATE OF FLORIDA,

Respondent.

Lower Tribunal No(s): 1D08-2486

98-5373-CRF

AMENDED JURISDICTIONAL BRIEF OF PETITIONER

PETITIONER

DOUGLAS R. BROWN, PRO SE.

#041498 // F3H11L.

HAMILTON CORRECTIONAL

INSTITUTION - ANNEK

10650 S.W. 46TH STREET

JASPER, FLORIDA. 32051

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PRELIMINARY STATEMENT

Douglas R. Brown is the Petitioner in this action and will be referenced as the Petitioner. The Respondent is the State of Florida, The First District Court of Appeal and will be referred to as the district court or Lower Tribunal or Lower court. The order of the District Court will be referenced by court ruling, Appx. followed by appropriate page number.

STATEMENT OF THE CASE AND FACTS

The pertinent history and facts are set out in the court ruling of the lower court, attached hereto as provided to Petitioner by the clerk of the District Court which will be referred to as Appendix [herein after referenced as Appx.].

SUMMARY OF THE ARGUMENT

Petitioner contends that this Honorable court has discretionary Jurisdiction. An examination of the districts courts ruling below demonstrates that the lower tribunal "did" expressly declare valid a state statute and in doing so misapplied a decision rendered by this court. The lower court failed to apply controlling supreme court cases on the subject matter, whereby the district courts opinion creates conflict with long standing precedent of this court and is antithesis of the [EXPLICIT LANGUAGE] of the clear, precise language which the framers of our constitution drafted and the people approved as a constitutional rule.

This Honorable High Court is being called upon to resolve what has taken on the appearance of being a severe case of Manifest injustice, if the district Courts ruling is allowed to stand. Thats why this Honorable Court has jurisdiction; to reverse a ruling that clearly violates a provision of our state constitution.

ARGUMENT

ISSUE

WHETHER THE DISTRICT COURT OF APPEALS
RULING, DECLARING VALID A STATE
STATUTE GIVES THIS COURT DISCRETIONARY
JURISDICTION TO REVIEW THE CASE

The First District Court of Appeal DID, expressly declare valid a state statute. [Appx. pg. 2]

The question here is, whether the Lower Courts ruling, expressly declaring valid a state statute by stating the statute is not unconstitutional and that Florida statutes are not subject to the controlling provisions of the constitution opens the door for this courts review under discretionary jurisdiction. Petitioner avers that this court has jurisdiction. Pursuant to rule 9.030(c)(2)(A)(i), Fla. R. App. P and Article V, Section 3(b)(3), of the Florida Constitution (1980 amendment). Rule 9.030(c)(2)(A)(i) provides: The Florida Supreme court has jurisdiction to review a decision of a district court of appeal that expressly declares valid a state statute. The district opinion at Appx. pg. 2 did expressly articulate that the enacting clause language is not required and that Florida statute, chapter 812.13 (1997) is not unconstitutional. By Misapplying this Courts holding in

Santos v. State, 380 So. 2d 1284, 1285 (Fla. 1980). The district court failed to apply the correct / proper standard of review. Santos, Supra is clearly distinguishable from / with the instant case because this court's analysis in Santos did not go beyond the Single Subject / Title clause contained in the First rule of article III, section 6 when deciding Santos. And it appears that the complained of defect in Santos was nothing more than a figment of Mr. Santos imagination or [wishful thinking]. However, in the instant case the statute under challenge is devoid of constitutionality of content, The defect is plain ~ on the face of the statute [Law] and even though Petitioner is not challenging the internal operating procedure, The printed version of Legislative Session 92-155, Section 1. Section 812.13, F.S. does not contain the constitutionally required enacting clause, nor does any specific purposed Law in that particular Session which is recorded in the journal, generally referred to as Sessions Laws.

In order for the district court to expressly find that Florida statute, chapter 812.13 (1997) is not unconstitutional, the court must necessarily construe or interpret the explicit language of the enacting clause rule and determine that the language used in the document does not mean what it says. And this High Court held that "It is a well established principle of constitutional construction that where the constitution prescribes the manner in which something maybe accomplished, the means are exclusive." State v. Andrews, 113 So. 2d 701, 702, (Fla. 1959). Further, expressed or implied provisions of the constitution cannot be altered, contracted or enlarged by legislative enactments. Sparkman v. State, ex rel. Scott, 58 So. 431, 432 (Fla. 1952).

In fact this court stated "All statutes are subject to the controlling provisions of the state and federal constitutions whether so expressed in the acts or not. See e.g., *Gray v. Moss*, 115 Fla. 701, 156 So. 262 (Fla. 1934). The word "Law" as used in this commandment means an enactment by the legislature. See e.g., *Grapeland Heights Civic Ass'n v. City of Miami*, 267 So. 2d 321 (Fla. 1972). This cause, the purpose for which is to identify the statute as an act of the legislature by expressing on its face the authority behind the act, is a prime essential to the validity of a statute. See e.g., *City of Winterhaven v. A.M. Klemm & Son*, 132 Fla. 334, 181 So. 153 (Fla. 1938) *rehearing denied* at 133 Fla. 525, 182 So. 841.

Petitioner contends, this Honorable Court's discretionary jurisdiction is properly invoked based on rule 9.030(a) (2)(A)(i), Fla. R. App. P. and Article V, section 3 (b)(3) of the Florida Constitution along with Article II, section 15 (b), Fla. Const. [TO SUPPORT PROTECT & DEFEND THE CONSTITUTION].

These authorities set forth herein demonstrate that this court did not issue by Judicial decision an exemption status to Florida statutes requirement of inclusion of the statement of authority (enacting clause). Because once an act of the legislature becomes a law (upon formal adoption and publication) the precise language commanding every law to read "be it enacted" as prescribed by the constitution must be included on the face of every law, [not each session or each Bill], but every law and Florida statutes is the final product of legislative acts which ultimately become the official statutory laws of the state of Florida, hence are the only effective legal binding laws of the state which are enforceable, not sessions law or Bills, Florida statutes.

CONCLUSION

Based on the foregoing reasons and authorities, the Petitioner respectfully moves this honorable Court to determine that it does have jurisdiction and direct Petitioner to file a brief on the merits which is the cause for this action.

Respectfully Submitted:

Douglas R. Brown

Douglas R. Brown, Pro Se.
#041498 // FB1114.
Hamilton Correctional Institute
10650 S.W. 46TH Street
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing AMENDED JURISDICTIONAL BRIEF OF PETITIONER has been put into the hands of prison authority for mailing via u.s. Mail to:

[COUNSEL FOR RESPONDENT]

Mr. Bill McCollum, Attorney General,

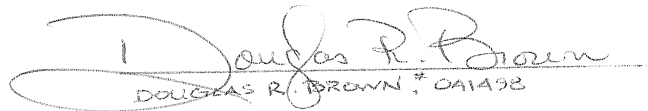
Ms. Trisha Meggs Pate, A.A.G.,

Mr. Joshua R. Heller, A.A.G.

PL-01 The Capitol

Tallahassee, Florida. 32399-1050

on this 25TH day of July, 2009.


DOUGLAS R. BROWN, # 0A1498
HAMILTON CORRECTIONAL INST. AX
10050 S.W. 46 TH Street
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IN THE SUPREME COURT OF FLORIDA

DOUGLAS R. BROWN,
Petitioner,

v.

CASE NO.: SC09-1159

STATE OF FLORIDA,
Respondent.

APPENDIX

Brown v. state, --- so. 3d ---, 34 Fla.L.Wkly D1197
(Fla. 1st Dist. Ct. App., June 12, 2009) (As supplied by clerk of
court, First District court of Appeal)

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

DOUGLAS R. BROWN ,

Appellant,

v.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D08-2486

STATE OF FLORIDA ,

Appellee.

Opinion filed June 12, 2009.

An appeal from the Circuit Court for Duval County.
L. P. Haddock, Judge.

Douglas R. Brown, pro se, Appellant.

Hon. Bill McCollum, Attorney General, Joshua R. Heller, Assistant Attorney
General, for Appellee.

PER CURIAM.

Appellant was convicted of robbery under section 812.13, Florida Statutes (1997), and sentenced to thirty years' imprisonment as a habitual violent felony offender. His judgment of conviction and sentence were affirmed by this court in

Brown v. State, 740 So. 2d 530 (Fla. 1st DCA 1999) (table). Since then, appellant has filed in this Court twelve separate appeals, including the instant one and another that is currently pending in case number 1D08-1453, of the lower court's orders denying his various postconviction motions and petitions challenging the above robbery conviction. As regards the appeals in case numbers 1D00-2691; 1D00-3090; 1D02-0886; 1D02-2081; 1D03-4084; 1D04-0831; 1D05-1769; 1D05-5253; 1D07-1215; and 1D08-2221, all have been affirmed without opinion by this Court, with the exception of one that was dismissed as being premature.

The instant appeal stems from the trial court's denial of appellant's "Motion To Dismiss" his conviction and sentence on the basis that the original information charging him with robbery failed to invoke the trial court's subject matter jurisdiction because section 812.13, Florida Statutes (1997), was unconstitutional for failing to include the enacting clause language set forth in Article III, section 6, of the Florida Constitution. We affirm the denial of appellant's motion because his argument, which is also raised in Case 1D08-1453, is without merit. Once the laws passed by the legislature are codified for publication in the Florida Statutes, the requirements and restrictions of Article III, section 6, of the Florida Constitution, do not apply. See Santos v. State, 380 So. 2d 1284, 1285 (Fla. 1980). Thus, section 812.13, Florida Statutes (1997), is not unconstitutional due to the absence of the "enacting clause" language.

However, this does not end the matter before us. The state has filed a motion requesting this Court to prohibit appellant from filing any future pro se documents in this Court stemming from this or any other case on the basis that appellant's persistence in filing meritless appeals has amounted to an "egregious abuse of the judicial process." State v. Spencer, 751 So. 2d 47, 48 (Fla. 1999) (quoting from and approving Spencer v. State, 717 So. 2d 95 (Fla. 1st DCA 1998)). We have considered the state's motion, as well as appellant's response thereto, and have concluded that appellant's repetitive attacks on his conviction and sentence have indeed amounted to an abuse of the legal process "and will have an adverse effect upon this Court's limited resources" if allowed to continue. Baker v. State, 939 So. 2d 167, 168 (Fla. 1st DCA 2006); accord Birge v. State, 620 So. 2d 234 (Fla. 1st DCA 1993). Thus, we grant the state's motion in part, and prohibit appellant from filing any further pleadings in this Court challenging his conviction in Duval County Circuit Court Case Number 16-1998-CF-5373, "regardless of the remedy sought or theory raised, unless he is represented in such proceeding by a member in good standing of The Florida Bar." Baker, 939 So. 2d at 168. The Clerk of this Court, accordingly, is directed not to accept any additional pro se filings in this case filed by appellant.

AFFIRMED.

WEBSTER, BENTON and ROBERTS, JJ., CONCUR.