Supreme Court of Florida

Oral Argument Press Summaries
May 1 to May 5, 2006

The following summaries are drawn from briefs and lower court judgments. They are meant to provide a general idea of facts and issues presented in cases, and should not be considered official court documents. Facts and issues presented in these summaries should be checked for accuracy against records and briefs, available from the Court, which provide more specific information.

If you plan to cover the oral arguments in person, arrive early. Times & order of appearance are tentative and subject to change with no notice. Cases may be postponed due to exigent circumstances. Also please note that oral arguments begin at 9 a.m. Monday through Thursday but at 8:30 a.m. on Friday.

If you plan to monitor the oral arguments electronically, please see our Web page, www.floridasupremecourt.org , for information on satellite links, broadcasts and online viewing.

Monday, May 1, 2006
9 a.m. ET

State of Florida v. Jay Junior Sigler
SC04-1934 / Broward County
maximum of 20 minutes to the side

The State and Mr. Sigler both appeal a ruling by the Fourth District Court of Appeal, which reversed Mr. Sigler's conviction of 3rd degree felony murder and sent the case back to the trial court for a new trial. The original charge against Mr. Sigler was based on the death of Dennis Palmer, who was fatally injured in a car crash a day after Mr. Sigler escaped from prison. Mr. Sigler was a passenger in the car that crashed into Mr. Palmer's car during a high-speed chase by law enforcement. Mr. Sigler was convicted him of 2nd degree felony murder. On appeal, the 4th DCA overturned that conviction, agreeing with Mr. Sigler that it was not supported by the evidence. The 4th DCA directed the trial court to convict Mr. Sigler of 3rd degree felony murder. After the trial court did so, Mr. Sigler appealed again to the 4th DCA, arguing this time his constitutional right to trial by jury was violated. The 4th DCA agreed. In its appeal to this Court, the state argues that the conviction did not violate Mr. Sigler's constitutional right to trial by jury.

Your Druggist, Inc. v. Robert Powers etc., et al. &
B.A.L. Pharmacy etc. v Robert Powers etc., et al.
SC05-1191 & SC05-1192 / Broward County
two consolidated cases; maximum of 20 minutes to the side as consolidated

In related cases, pharmacy companies ask the Court to quash a decision by the Fourth District Court of Appeal concerning a pharmacist's responsibilities to his customer. The case stem from actions filed by Robert Powers for the estate of Gail Powers, a 46-year-old woman who purportedly died of a prescription painkiller overdose. Powers accused the pharmacy companies of negligence for failing to warn Ms. Powers that her medications were prescribed in potentially dangerous amounts and combinations. The trial court dismissed, finding no duty to warn under the facts of the case. On appeal, the 4th DCA reversed. The pharmacy companies argue that the 4th DCA's decision conflicts with rulings from two other District Courts of Appeal and this Court's precedent. Powers argues that the decision is too narrow in scope to conflict with the other rulings. Amicus briefs have been filed in support of all parties.

Waste Management, Inc. v. Rolando Mora, et al.
SC05-2024 / Broward County
maximum of 20 minutes to the side

The Moras sued Waste Management for injuries arising out of a traffic accident. At trial, the jury awarded the Moras $42,000 in damages for past and future medical bills and lost wages but nothing for pain and suffering. The Moras asked for a new trial on the issue of non-economic damages but the trial judge instead increased the award by $10,000 and ruled that under section 768.043, Florida Statues, which governs adjustments to jury awards, only Waste Management, as the party adversely affected by the increase, had the option to accept the increase or decline in favor of a new trial. Waste Management accepted the increase and the trial court denied the Moras' request for a new trial. The Moras appealed, arguing that their right to a trial by jury was violated by the trial judge's interpretation of section 768.043. The Fourth District Court of Appeal reversed the trial judge and Waste Management appeals that ruling to this Court.

Tuesday, May 2, 2006
9 a.m. ET

John Vosilla, et al. v. Julio Rosada, et al.
SC05-1778 / Seminole County
maximum of 20 minutes to the side

This case involves a conflict between the Second and Fifth District Courts of Appeal on the issue of whether compliance with the statutory notice provisions of chapter 197, Florida Statutes, satisfies constitutional due process requirements where notice of a tax deed sale is mailed to the legal titleholder at the wrong address. The titleholders argue

that their due process rights were violated because the clerk of court mailed the notice to their previous address despite the fact that they notified both the tax collector and the clerk of their new address. The trial court disagreed and ruled against the titleholders. On appeal, the Fifth District reversed and held that the notice given did not satisfy constitutional due process requirements. The Fifth District also certified conflict with a decision of the Second District in which that court had reached a contrary conclusion.

David Cook v. State of Florida & David Cook v. James R. McDonough, etc.
SC04-2066 & SC05-1313 / Miami-Dade County
maximum of 20 minutes to the side

Mr. Cook was convicted of the fatal shooting of Rolando and Onelia Betancourt, the midnight cleaning crew of a South Miami Burger King, during an armed burglary of the restaurant. A jury recommended death for the first murder by a 7-5 vote and death for the second murder by an 8-4 vote. Mr. Cook was sentenced to life imprisonment for the murder of Rolando Betancourt and to death for the murder of Onelia Betancourt. This Court reversed the death sentence and directed the trial court to re-sentence Mr. Cook. He was condemned a second time and the sentence was upheld by this Court on direct appeal. The trial court rejected Mr. Cook's first post-conviction appeal and this is an appeal of that decision.

The Florida Bar v Donald Alan Tobkin
SC04-1493 / Broward County
maximum of 15 minutes to the side

The referee in this case concluded that Mr. Tobkin violated regulations governing members of The Florida Bar and recommended that he be disciplined by a 10-day suspension from the practice of law and be required to attend The Florida Bar's Ethics Workshop. Mr. Tobkin appeals that conclusion and recommendation, arguing The Bar did not prove its allegations of misconduct by clear and convincing evidence. The Bar defends its case and supports the referee's findings and recommendation.

Wydell Jody Evans v. State of Florida & Wydell Jody Evans v. James McDonough
SC05-632 & SC05-1974 / Brevard County
maximum of 20 minutes to the side

Mr. Evans was convicted of the 1998 fatal shooting of 17-year-old Angel Johnson. The jury voted 10-2 to recommend that he be sentenced to death and he was condemned. His conviction and sentence were upheld on direct appeal and he filed his first post-conviction appeal in trial court. It was denied; this appeal challenges that decision.

Wednesday, May 3, 2006
9 a.m. ET

Patrick Joseph Kelso v. State of Florida
SC05-597 / Martin County
maximum of 20 minutes to the side

Mr. Kelso was convicted of grand theft of a firearm and theft of property, crimes which were committed during a home burglary. He argues that Florida statute does not allow conviction and sentence of both crimes stemming from a single criminal transaction. The 4th District Court of Appeal agreed with the state that Florida's theft statute does allow for separate convictions because one of the items stolen was a firearm. Mr. Kelso argues that the key consideration is the fact that the theft of a firearm and the theft of property are different degrees of the same crime of theft as defined by statute. When all the property is taken at the same time from the same victim at the same place, he argues, Florida's double jeopardy statute does not allow separate convictions and sentences for different degrees of the same core offense, in this case, theft. The 4th DCA agreed with the state that double jeopardy had not been violated but also certified conflict with rulings in similar cases from other District Courts of Appeal.

Henry Garcia v. State of Florida & Henry Garcia v. James R. McDonough, etc.
SC04-866 & SC05-1316 / Miami-Dade County
maximum of 20 minutes to the side

Mr. Garcia was convicted of the murders of two elderly sisters in January 1983. The jury voted 7-5 to recommend that he be sentenced to life in prison for the fatal stabbing of 86-year-old Mabel Avery and 12-0 that he be sentenced to death for the fatal stabbing of 90-year-old Julia Ballentine, who was also sexually assaulted. The trial court sentenced him to death for both murders and this Court upheld the convictions and sentences. Mr. Garcia filed a post-conviction appeal in circuit court; it was denied and this is his appeal of that ruling.

Meryl S. McDonald v. State of Florida & Meryl S. McDonald v James McDonough
SC03-648 & SC04-708 / Pinellas County
maximum of 20 minutes to the side

Mr. McDonald was convicted of the murder of Louis A. Davidson, who was killed in his apartment in January 1994. The jury voted 9-3 to recommend a death sentence and Mr. McDonald was condemned. His conviction and sentence were upheld by this Court on direct appeal and representing himself, he lost his first post-conviction appeal in circuit court. State lawyers were appointed to represent him and they filed this appeal of the circuit court's ruling.

Thursday, May 4, 2006
9 a.m. ET

In Re: Amendments to the Rules Regulating The Florida Bar -- Chapter 11 Task Force
SC03-122 / statewide impact
maximum of 40 minutes

The court considers proposed changes to the rules that govern what law students must do to qualify as certified legal interns while still in law school or before they pass the Bar. The proposed changes would limit certification to students who had applied for admission to the Bar and had acquired a letter of initial clearness as to character and fitness from the Bar. The proposed changes would also revoke certification from a legal intern who took the Bar exam and failed.

Jack Rilea Sliney v. State & Jack Rilea Sliney v. James R. McDonough, etc.
SC05-13 & SC05-1462 / Charlotte County
maximum of 20 minutes to the side

Mr. Sliney was convicted of the June 1992 murder of George Blumberg, who was fatally stabbed and beaten in his pawnshop. The jury voted 7-5 to recommend a death sentence and he was condemned. The conviction and sentence were upheld by this Court on appeal and Mr. Sliney filed his first post-conviction appeal in circuit court. It was denied and this appeal followed.

Jesse L. Blanton v. State of Florida
SC04-1823 / Seminole County
maximum of 10 minutes to the side

Mr. Blanton was convicted of four counts of sexual battery and 13 counts of procuring a sexual performance of a child. The victim was his 11-year-old adopted daughter. The trial judge allowed the state to use as evidence an audiotape of the child being interviewed by a detective. Mr. Blanton argued on appeal to the Fifth District Court of Appeal that his Sixth Amendment right to confront his accuser was violated. He also cited a recent decision by the U.S. Supreme Court concerning when "testimonial" hearsay is admissible in criminal trials. The 5th DCA rejected his appeal and he appealed that decision to this Court.

State of Florida v. Moroni Lopez
SC05-88 / Leon County
maximum of 10 minutes to the side

Mr. Lopez was convicted of possession of a firearm by a convicted felon but, on appeal, the 1st District Court of Appeal overturned the conviction, agreeing with Mr. Lopez that his Sixth Amendment right to confront his accuser had been violated. The man who told

police that Mr. Lopez had abducted him from his apartment and had a gun in his possession could not be found to testify at trial. But the trial judge allowed the state to admit his statement to police under an exception to the hearsay rule. On appeal, the 1st DCA agreed with the trial court that the statement met the exception outline in Florida law but added that it was not admissible under a recent ruling by the U.S. Supreme Court concerning when "testimonial" hearsay can be allowed.

State of Florida v. Rodolfo Contreras
SC05-1767 / Palm Beach County
maximum of 15 minutes to the side

Mr. Contreras was convicted of one count of sexual battery and one count of lewd and lascivious molestation of his 9-year-old daughter after a trial that included the videotaped statement of the child victim. The Fourth District Court of Appeal reversed the conviction, agreeing with Mr. Contreras that his Sixth Amendment right to confront his accuser had been violated under a recent U.S. Supreme Court decision on when "testimonial" hearsay can be allowed.

Friday, May 5, 2006
8:30 a.m. ET

P. Dewitt Cason, etc., et al. v. Florida Department of Management Services
SC05-1484 / Columbia County
maximum of 20 minutes to the side

The First District Court of Appeal certified as a question of great public importance the issue of whether the jurisdictional nonclaim provisions of section 194.171, Florida Statutes, apply to bar a civil action brought by the State that challenges a tax assessment as void on the ground that the property assessed is immune from ad valorem taxation. The trial court ruled that challenges to tax assessments brought by the State are subject to the jurisdictional nonclaim provisions of section 194.171 and dismissed the State's complaint because it was untimely under the statute. On appeal, the First District reversed. The First District held that the jurisdictional nonclaim provisions of section 194.171 do not apply to challenges to tax assessments brought by the State that assert that the property assessed is immune from ad valorem taxation, but certified the question to this Court for review.

Jeffrey Woodard, et al. v. Jupiter Christian School, et al.
SC05-1986 / Palm Beach County
maximum of 20 minutes to the side

Mr. Woodard and his mother sued Jupiter Christian School and its chaplain after Mr. Woodard was expelled because he had confided in the school chaplain that he was gay.

The lawsuit claimed Mr. Woodard and his mother suffered emotional distress arising out of a breach of confidential information. The school argued that there was no basis for a lawsuit, in part because of a legal doctrine known as "the impact rule" which limits lawsuits for emotional harm to cases where the emotional harm is based on physical injury. The trial court agreed and, when Mr. Woodard appealed, the 4th District Court of Appeal upheld the lower court. But the 4th DCA also certified the issue as a question of great public importance for this Court to review.