

**STATE OF FLORIDINA
COURT OF APPEALS
DIVISION THREE**

THE PEOPLE,

Respondent/Cross-Appellant,

v.

Cr. No. 08-1028

JEFFREY WILLIAMS,

Appellant/Cross-Respondent.

BRIEFING ORDER

The State of Florida indicted Jeffrey Williams in the District Court of Florida for multiple violations of Florida's Cruelty to Animals Law, 8 Florida Revised Statutes section 621, based on the treatment of roughly 10,000 chickens found in a truck that Williams was driving through Florida.

In a rare procedural posture, Williams stipulated that he had committed all the acts constituting the forty-five counts of animal cruelty with which he was ultimately charged. Williams raised a sole legal defense to dismiss his indictment, challenging the state's right to bring this action by arguing that the state anti-cruelty law was preempted by 49 U.S.C. section 80502, also known as the Twenty-Eight Hour Law. The District Court found that Williams' conduct was subject to the Twenty-Eight Hour Law, but that the federal law did not preempt the state prosecution. Williams was therefore convicted on all forty-five counts.

Williams appeals, arguing that he was subject to the Twenty-Eight Hour Law and that his conviction should be overturned and his indictment dismissed because

application of the state anti-cruelty law violates the Supremacy Clause of the United States Constitution. The State cross-appeals the District Court's ruling that the transport of chickens was covered by the Twenty-Eight Hour Law. The State's appeal is specifically authorized by Rule 1028 of the Florida Rules of Criminal Procedure.

Each party is directed to brief the following questions:

1. Does the term "animals" in the Twenty-Eight Hour Law include chickens?
2. Does the Supremacy Clause of the U.S. Constitution bar Williams' conviction under the Florida anti-cruelty statute because the state anti-cruelty law is preempted by the federal Twenty-Eight Hour Law?

The parties' briefs shall be limited to these issues, but the parties are not limited in their briefing to the arguments or authority upon which the district court relied. For the purposes of briefing and argument:

1. The parties may only cite legal authorities dated before November 19, 2008.
2. Solely for purposes of establishing the standard of review on appeal, Florida courts of appeal have adopted the law of the United States Court of Appeals for the Second Circuit. Second Circuit law is not controlling with respect to any other aspect of this action.

SO ORDERED.

November 19, 2008

/s/

The Honorable Matthew H. Pan