



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
408 The Capitol

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DATE	COMM	ACTION
12/1/01	SM	Unfavorable
	CJ	
	FT	

December 1, 2001

The Honorable John M. McKay
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 80 (2002)** – Senator Rudy Garcia
Relief of Frank Lee Smith

SPECIAL MASTER'S FINAL REPORT

THIS IS A CLAIM AGAINST THE DEPARTMENT OF CORRECTIONS FOR \$3.5 MILLION BASED ON AN ALLEGED MISCARRIAGE OF JUSTICE CARRIED OUT BY AGENTS OF STATE AND LOCAL LAW ENFORCEMENT.

RECOMMENDATIONS:

Senate Rule 4.81(6) states in pertinent part: "The hearing and consideration of a claim bill shall be held in abeyance until *all available* administrative and *judicial remedies* have been exhausted...."

Senate Bill 80 appears to allege several *available judicial remedies* that have not been exhausted. The applicable statutes of limitation have not yet barred the pursuit, in court, of *available*, colorable claims alleged in the bill.

The claim bill process is a last resort. Questions of law and fact – matters of first impression – should be decided, where there is an available remedy, by judges and juries that are well-suited to do so.

The following result does not address or evaluate the merits of the estate's claims as they may later be made to appear.

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For the foregoing reasons, I recommend that Senate Bill 80
be reported UNFAVORABLY.

Respectfully submitted,

Connie Cellon
Senate Special Master

cc: Senator Garcia
Faye Blanton, Secretary of the Senate
House Claims Committee