

**IN THE COUNTY COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR ST LUCIE COUNTY, FLORIDA**

STATE OF FLORIDA
Plaintiff,

vs.

Case No. 562012MM000530
Judge: Clifford H. Barnes

DALE NORMAN
Defendant.

**DEFENDANT'S MOTION FOR NEW TRIAL OR CORRECTION OF FINAL
JUDGMENT AND CERTIFICATION OF
QUESTION OF GREAT PUBLIC IMPORTANCE**

COMES NOW the Defendant, DALE NORMAN, by and through undersigned counsel, and pursuant to Florida Rules of Criminal Procedure 3.580, respectfully moves that this Honorable Court grant a new trial in this matter or alternatively amend and correct its final judgment and sentence entered June 10, 2014 *nunc pro tunc* to August 14, 2012, and as grounds therefore, the Defense would show as follows:

1. On August 22, 2012 this Court entered an order on five motions to dismiss. The Court denied each motion to dismiss and certified the following questions of great public importance:

- A. IS FLORIDA'S STATUTORY SCHEME RELATED TO THE OPEN CARRY OF FIREARMS CONSTITUTIONAL?
- B. DO THE EXCEPTIONS TO THE PROHIBITION AGAINST OPEN CARRY CONSTITUTE AFFIRMATIVE DEFENSES TO A PROSECUTION FOR A CHARGE OF OPEN CARRY OR DOES THE STATE NEED TO PROVE BEYOND A REASONABLE DOUBT THAT A PARTICULAR DEFENDANT IS NOT CONDUCTING HIM/HERSELF IN THE MANNER ALLOWED?

C. DOES THE RECENT “BRIEF” AND OPEN DISPLAY
EXCEPTION UNCONSTITUTIONALLY INFECT THE OPEN
CARRY BAN BY ITS VAGUENESS

2. On May 13, 2014 the Fourth DCA relinquished jurisdiction to this Court to enter a written judgment and sentence.

3. This Court complied with the DCA’s order and entered a written Judgment and Sentence *nunc pro tunc*.

4. In its written Judgment and Sentence, the Court did not include the certified questions it had previously included in its final order ruling on the Defendant’s motions to dismiss.

5. This Court retains jurisdiction to entertain motions for new trial or to correct the judgment and sentence after the entry of a final judgment, until the time for filing a motion for new trial has expired. (June 20, 2014).

6. In response to this Court’s Judgment and Sentence, the State has filed a motion to dismiss the appeal alleging that this Court’s failure to include the previously certified questions in the Judgment and Sentence entered June 10, 2014 creates a procedural defect fatal to the DCA’s exercise of jurisdiction.

7. The State alleges that under Rule 9.030(c)(1)(A), Fla. R. App. P., unless the Judgment and Sentence contains the certified questions the District Court of Appeal will not have jurisdiction to consider this matter.

8. The Defendant, DALE NORMAN, asserts that this Court has previously certified the questions of great public importance *supra*, and assumes that this Court did not intend to withdraw the certification of those questions by its order of June 10, 2014.

9. As this Court stated in its prior order, the answers to these questions affects both thousands of law enforcement officers charged with enforcing the laws of the state, as well as the millions of law-abiding Florida gun owners.

10. The undersigned Counsel has consulted with the Office of the Attorney General and is authorized to represent that opposing counsel, has “no position” on the granting of this motion and the amendment of the Judgment and Sentence.

WHEREFORE, Defendant respectfully requests the Court amend its Judgment and Sentence of June 10, 2014, to include the questions of great public importance previously certified by this Court.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished this 18th day of June 2014 via e-service to:

Office of the State Attorney 19th Circuit

Cynthia Comras
Office of the Attorney General

Respectfully submitted,

FLETCHER AND PHILLIPS

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