IN THE SUPREME COURT OF FLORIDA

CASE NO.: SC15-650

DCA NO.: 4D12-3525

DALE NORMAN,
Petitioner,

-vs-

STATE OF FLORIDA,
Respondent.

PETITIONER'S REPLY BRIEF ON THE MERITS

ON PETITION FOR DISCRETIONARY REVIEW FROM THE DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

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TABLE OF AUTHORITIES

REPLY

Respondent's brief misrepresents controlling case law, misleads the Court regarding the legislative history of this issue, and mischaracterizes Petitioner's argument in this case. Respondent uses ellipses to maliciously obfuscate dispositive reasoning of the U.S. Supreme Court. The brief relies on legislative intent language that is completely unrelated to the statute before this Court. Respondent's brief would have this Court believe that Petitioner seeks "the unlimited right to carry any type of gun (long gun or hand gun) in any manner (open or concealed)." (Answer Brief, p. 17-18). This is blatantly false, as even a cursory examination of the Petitioner's briefs throughout this case demonstrates.

Respondent also claims that Petitioner has waived arguments that were not made in the courts below. The allegedly waived arguments were not applicable to the then existing case law, or the arguments of either party below. The lower court rejected the arguments of both parties and held that a Concealed Weapon Firearms License (CWFL) was an adequate protection of the right to bear arms.

I. RESPONDENT'S MISREPRESENTATIONS

A. Misrepresentation of Case Law

Ellipses are generally used to indicate an intentional omission from a section of text without altering its meaning. In a glaring misuse of ellipses, the Respondent

quotes language from *Heller*, that:

> **the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose**: . . . Although we do not undertake an exhaustive historical analysis today of the full scope of the Second Amendment, nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.

(Respondent's Brief, p. 12, emphasis included in brief, not in original). The language Respondent intentionally excluded from the quote by ellipses is:

> For example, the **majority** of the 19th-century courts to consider the question held that prohibitions on carrying **concealed** weapons were lawful under the Second Amendment or state analogues. See, e.g., *State v. Chandler*, 5 La. Ann., [489] at 489-490; *Nunn v. State*, 1 Ga., [243] at 251; see generally 2 Kent *340, n 2; The American Students' Blackstone 84, n 11 (G. Chase ed. 1884).

District of Columbia v. Heller (*Heller I*), 554 U.S. 570, 626 (2008) (emphasis added).[1] Both of the cases cited by the U.S. Supreme Court, which were intentionally omitted from Respondent's brief, stood for the proposition that the right to open carry firearms for self-defense was the *sine qua non* of the constitutional right to bear arms. The Respondent has even asked that the U.S. Supreme Court should confirm the

[1]The Brief of Amicus Curiae, also chooses to ignore the U.S. Supreme Court's statement that concealed carry may be regulated without stating the same about open carry.

importance of its citation to *Nunn*.[2]

The court in *Chandler* stated:

> The act of the 25th of March, 1813, makes it a misdemeanor to be "found with a concealed weapon, such as a . . . pistol, . . . concealed in his bosom, coat, or any other place about him, that does not appear in full open view." This law became absolutely necessary to counteract a vicious state of society, growing out of the habit of carrying **concealed** weapons, and to prevent bloodshed and assassinations committed upon unsuspecting persons. It interfered with no man's right to carry arms (to use its words) **"in full open view,"** which places men upon an equality. **This is the right guaranteed by the Constitution of the United States**, . . .

Chandler at 489-90 (emphasis added). The Court in *Nunn* was equally clear:

> "*to be in conflict with the Constitution, it is not essential that the act should contain a prohibition against bearing arms, in every possible form; it is the right to bear arms . . . that is secured by the Constitution, and whatever restrains the full and complete exercise of that right, though not an entire destruction of it, is forbidden by the explicit language of the Constitution."* (Quoting *Bliss vs. The Commonwealth*, (2 Littell's Rep. 90, (Ky. 1822)))
>
> Our opinion is, that any law, State or Federal, is repugnant to the Constitution, and void, which contravenes this right, originally

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[2] "Consequently, [the U.S. Supreme Court] should grant this petition both to make clear that the lower courts are not free to repudiate the Court's historical analysis, and to confirm the import of its citations in *Heller* to *Nunn* and *Andrews* that broad-brush restrictions on law-abiding citizens carrying handguns in public, whether open or concealed, premised on the view that the public is better off if citizens do not exercise their rights, run afoul of the right of the people to . . . bear arms. It should make plain that the Second Amendment took New York's policy choice off the table." (Kachalsky Brief at p. 12, internal quotes and cites omitted).

> belonging to our forefathers, trampled under foot by Charles I. and his two wicked sons and successors, re-established by the revolution of 1688, conveyed to this land of liberty by the colonists, and finally incorporated conspicuously in our own Magna Charta! and Lexington, Concord, Camden, River Raisin, Sandusky, and the laurel-crowned field of New Orleans, plead eloquently for this interpretation! And the acquisition of Texas may be considered the full fruits of this great constitutional right.
>
> We are of the opinion, then, that so far as the act of 1837 seeks to suppress the practice of carrying certain weapons **secretly**, that it is valid, inasmuch as it does not deprive the citizen of his natural right of self-defence, or of his constitutional right to keep and bear arms. **But that so much of it, as contains a prohibition against bearing arms openly, is in conflict with the Constitution, and void**;

Nunn at 248 and 251 (emphasis added). The quoted language from the two cases intentionally excluded by Respondent, and relied upon by the U.S. Supreme Court, is consistent with Petitioner's argument and was cited below, along with other contemporaneous cases.[3]

While the U.S. Supreme Court and every federal court to consider the issue has approved restrictions on concealed carry, see *Heller I* at 627, there is no controlling or even persuasive authority that supports Florida's nearly complete ban on the open carry of **any** firearm.

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[3]The court below read *Nunn*, *Chandler* and *Andrews*, for the proposition that the state could choose one form of carry over another. The court's reading of these cases is contrary to their actual holding that while some allow the state to regulate concealed carry, none allow the state to ban open carry.

To the contrary, the one modern case that has directly addressed this issue held that, "openly carrying a firearm outside the home is a liberty protected by the Second Amendment." *Bonidy v. United States Postal Serv*., 2013 U.S. Dist. LEXIS 95435, 18 (Dist. Colo. 2013) overturned on other grounds; *Bonidy v. United States Postal Serv*., 790 F.3d 1121 (10th Cir. 2015)(holding that the sensitive place restriction decided the issue in that case, without addressing the lower court's finding that open carry was protected by the Second Amendment).

B. Misrepresentation of Statutory Law

Respondent claims that Petitioner is not telling "the whole story" when he claims that Florida is an extreme outlier in restricting open carry. The truth is that Respondent's list of state restrictions is blatantly misleading, constitutes a glaring lack of candor to this Court, and fails to inform this Court just how far outside the mainstream Florida is.

Among the fifty states, thirty allow the open carry of handguns without any general permit requirement, fifteen require a permit to open carry, and one, South Carolina, prohibits the open carry of handguns but not long guns. Only three other states completely ban the open carry of firearms as does Florida. http://www.opencarry.org/maps/map-open-carry-of-a-properly-holstered-loaded-handgun/ (last visited March 9, 2016); accord,

http://smartgunlaws.org/open-carrying-policy-summary/ (last visited March 9, 2016).

Respondent claims that in North Dakota the open carry of a firearm is only legal if the firearm is unloaded. This is false. The statute cited includes the restriction Respondent claims then says, "2. The restrictions provided in subdivisions a and b of subsection 1 do not apply to: a. An individual possessing a valid concealed weapons license from this state or who has reciprocity under section 62.1-04-03.1." (N.D. Cent. Code Ann. §62.1-03-01(2)(a)).[4]

Respondent claims that Virginia bans the open carry of firearms in certain cities. This is a gross misrepresentation of Virginia law. The unlicensed open carry of a handgun, including in those certain cities, is legal. The only thing that is illegal according to the statute cited by Respondent, is the open carry of a center-fire firearm with a magazine that will hold more than twenty rounds of ammunition, or in those certain cities, a shotgun that will hold more than seven rounds of ammunition. Va. Code Ann. §18.2-287.4. Like North Dakota, the Virginia statute cited by Respondent does not apply to a person with a concealed handgun permit, like Mr. Norman. *Id.*

The remainder of the various state statutes cited by Respondent do nothing to advance its allegation that Petitioner has overstated the prevalence of open carry. The

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[4] North Dakota is included in Petitioner's count as a licensed open carry state on the cited sources, *supra*, because it requires a license to openly carry a loaded firearm, but does not otherwise substantially restrict the right.

five states' restrictions Respondent lists are no different from the restrictions already existing in Florida, such as "sensitive places" and bars, none of which are at issue in this case. See, Fla. Stat. Secs. 790.06(12), 790.115, 394.458, 311.12, and 258.157.

C. Misrepresentation of the Florida Constitution

Respondent argues that the final clause of Art. I, Sec. 8, "that the manner of bearing arms may be regulated by law", supports the proposition that the Legislature has *carte blanche* to regulate the bearing of arms, including prohibiting open carry by licensing concealed carry. Absent satisfaction of strict scrutiny, such an interpretation has been foreclosed by the U.S. Supreme Court. Certain policy choices are off the table. *Heller I* at 634.

It is important that this Court recognize the historical basis and construct of the phrase, upon which both the Respondent and the court below rely. The fallacious idea of the Legislature regulating the right to bear arms did not appear in Florida's first two constitutions, including the 1861 Ordinance of Secession. There was no right to bear arms in the 1865 military government constitution. And in the 1868, post-reconstruction constitution there was no idea of regulating the manner of bearing arms. The first time the idea of regulating the manner of bearing arms arose was in the 1885 constitution in response to the 14th Amendment. Florida had passed its 1868

constitution prior to the ratification of the 14th Amendment on July 9, 1868,.[5]

The inclusion of that language in the 1885 constitution was first used in 1893, to restrict the rights of "negro laborers" to have Winchester repeaters, and in 1901 to regulate the bearing of pistols by "negro laborers"[6]. See*, Watson v. Stone*, 4 So.2d 700 (Fla. 1941)(Buford, J., concurring and stating that the law was never intended to apply to the white population).

D. Misrepresenting Petitioner's Brief

Respondent argues to this Court that Petitioner falsely claimed that the State had previously taken the position that the Constitution requires states to allow open carry. (Answer Brief at p. 23, citing Initial Brief at p. 31). Petitioner made no such claim, but merely quoted the relevant language from the State's own brief, asking the U.S. Supreme Court to "confirm the import of its citations in *Heller* to *Nunn* and *Andrews* that broad-brush restrictions on law-abiding citizens carrying handguns in public, whether open or concealed, . . . run afoul of the right of the people to . . . bear arms." (Kachalsky Brief at p. 12, full quote at f. 2, *supra*, (Petitioner's Appendix to

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[5] "[I]t is clear that the Framers and ratifiers of the Fourteenth Amendment counted the right to keep and bear arms among those fundamental rights necessary to our system of ordered liberty." *McDonald v. City of Chicago,* 561 U.S. 742, 778 (2010); See also, *Id*. at 772 (southern states were actively disarming freedmen at the time of ratification of the Fourteenth Amendment).

[6]The 1901 license terms required handguns to be carried openly.

Reply Brief).

E. Petitioners Argument

Petitioner has claimed that for a variety of reason, Sec. 790.053, Florida's ban on open carry, violates the right to bear arms of the Florida and Federal Constitutions. Petitioner has conceded that consistent with the decisions of the U.S. Supreme Court in both *Heller I* and *McDonald*, and the prior precedent of this state (*Crane*), the carrying of concealed firearms is a privilege that may be regulated, licensed, or even prohibited.

Petitioner has further argued, that the long recognized and accepted interpretation of the Second Amendment, is that the right to bear arms means the right to openly carry those arms. This argument is consistent with the decisions in *Heller I* and *McDonald*, and the numerous state cases cited therein recognizing that while concealed carry was subject to restrictions, open carry was not.

Both of the parties conceded below that carrying a concealed firearm was a privilege and that the right to bear arms outside the home is fundamental. No other fundamental right is subject to licensing before exercise of the right is allowed in a lawful time, place, and manner.

F. Misuse of Legislative Deference.

Respondent's argument below, which was one of the two primary bases of the

4th DCA in upholding the open carry ban, was that the Legislature's declaration of policy in Sec. 790.25(1) constituted the legislative intent for the much later creation of Sec. 790.053, the open carry ban.

The declaration of policy which was included in the 1965 version of Sec. 790.25, was written at a time when Florida permitted the licensed open carry of handguns. The suggestion that the 1965 legislature somehow contemplated a time more than twenty years in the future when open carry would be outlawed is absurd. As this Court has held, later enacted statues control over prior statutes, stating:

> When reconciling statutes that may appear to conflict, the rules of statutory construction provide that . . . a more recently enacted statute will control over older statutes. With regard to the latter rule, this Court has explained "[t]he more recently enacted provision may be viewed as the clearest and most recent expression of legislative intent."

Fla. Virtual Sch. v. K12, Inc., 148 So. 3d 97, 101-102 (Fla. 2014)(internal cites omitted) see also, *Fla. Carry, Inc. v. Univ. of Fla.*, 180 So. 3d 137 (Fla. 1st DCA 2015)(holding that Sec. 790.25 supremacy clause could not control later enacted statute). The reliance of Respondent and the court below on legislative intent language written two decades prior to the enactment of the open carry ban is absurd.

Respondent argues for deference to the judgment of the Legislature. (Answer Brief, p. 21, citing *Turner Broadcasting Sys., Inc. v. FCC*, 512 U.S. 622, 665 (1994)). This same argument was used by the District of Columbia in *Heller III* and relied

upon by the Court below based on the district court decision in that case. This argument was rejected by the D.C. Circuit however, in the context of the fundamental right to bear arms, absent true evidence. *Heller v. Dist. of Columbia*, 801 F.3d 264 (D.C. Cir. Sept. 18, 2015)(*Heller III*) ("[Respondent] must **demonstrate** that the harms to be prevented by the regulation '**are real, not merely conjectural, and that the regulation will in fact alleviate these harms in a direct and material way**'." (emphasis added); Rehearing *en banc* denied, 2016 U.S. App. LEXIS 3607 (D.C. Cir. Feb. 26, 2016); Rehearing denied by 2016 U.S. App. LEXIS 3678 (D.C. Cir. Feb. 26, 2016). A *post hoc* justification that is not supported by the record is not sufficient.

Respondent is asking this Court to assume, without any legislative record or findings, that there was a valid, evidence-based reason for the open carry ban.

II. LEVEL OF SCRUTINY

A. Strict Scrutiny is the Only Appropriate Standard

Respondent seeks to have this Court ignore the principle of *stare decisis* in determining the appropriate level of scrutiny. The only controlling authority that should guide this Court's determination of the proper level of scrutiny is *State v. J.P.* This Court's decision in *State v. J.P.* is unequivocal.

> When a statute or ordinance . . . impairs the exercise of a fundamental right, then the law must pass strict scrutiny. . . . A fundamental right is one which has its source in and is explicitly guaranteed by the federal or

> Florida Constitution. . . . It is settled law that each of the personal liberties enumerated in the Declaration of Rights of the Florida Constitution is a fundamental right. . .

State v. J.P., 907 So.2d 1101, 1109-10 (Fla. 2004).

Contrary to Respondent's argument, the U.S. Supreme Court has taken no position on scrutiny and has not validated any approach that attempts to limit the application of strict scrutiny. That court has left it to the lower courts to determine the appropriate level of scrutiny, a task this Court already accomplished in *J.P.*

Respondent claims that the right at issue in this case, the right to openly carry a firearm, is not a fundamental right. This is in direct contradiction to the holding in *J.P.* that any impairment of a fundamental right in this state, "must pass strict scrutiny," as well as the nineteenth century cases cited by the *Heller I* court. *J.P.* at 1109; see also *State v. Reid*, 1 Ala. 612 (Ala. 1840)(finding that a right subject to legislative whim is no right).

B. Lack of Evidence

Respondent continues to advance their argument below that the open carry ban is substantially related to the State's unquestioned important interest in ensuring public safety. Rather than relying on evidence that does not exist in the record or elsewhere, Respondent falls to conjecture and supposition. Jurisdictions may make different policy judgments. However, when a clear trend is shown and only a few

states remain, it begs the question: what is unique about the outlier states and their policy judgments? See, *Moore v. Madigan*, 702 F.3d 933, 940 (7th Cir. 2012).

Respondent has presented no evidence to meet its burden to justify the ban on open carry. No legislative committee hearings were held. There was no debate. The Florida House passed the bill on October 7, 1987, the Senate passed it on October 8, 1987, and the bill was signed the next day.

III. PRESERVATION OF ARGUMENTS

At the time that Petitioner made his arguments before the trial court and the 4th DCA, he did not raise substantive due process or prior restraint because those issues were not ripe. The 3rd DCA had determined that a CWFL was a privilege not a right. Both Respondent and Petitioner assumed the validity of *Crane* at trial and in the 4th DCA.

Both arguments only became at issue and ripe for determination after the 4th DCA created a right that did not previously exist. The 4th DCA's creation of a right to a CWFL was not advocated by either of the parties.

The lower court then used the existence of the newly created right to a CWFL to justify its determination that the open carry ban was not a complete denial of the fundamental right to bear arms outside the home. In his Motion for Rehearing, Petitioner alerted the lower court that the decision created new issues of substantive

due process and prior restraint that did not previously exist.

If the 4th DCA is correct and there is a right to a CWFL, then Norman along with all others in this state, have lost their right to bear arms due to the prior restraint on that right until they obtain government permission. The abrogation of a fundamental right until one has gone through an approved procedure to obtain the right, is a denial of substantive due process rights.

Assuming the argument is not waived, Respondent claims that one cannot look to the due process clause as an additional source of protection for a constitutional right. The case cited by Respondent held that the court would look first to the constitutional right for protection rather than the more general substantive due process.

Apparently, the U.S. Supreme Court was unaware of this precedent or felt it did not apply. See *McDonald* at 758 (rejecting privileges and immunities as a basis for the Court's decision, and relying solely on substantive due process and finding "It cannot be doubted that the right to bear arms was regarded as a substantive guarantee, not a prohibition that could be ignored so long as the States legislated in an evenhanded manner.").

For Respondent to claim to this Court that substantive due process is not applicable in the context of the right to bear arms, is to ignore very recent, directly on

point case law, in favor of unrelated precedent from twenty-five years ago.

IV. AS APPLIED CHALLENGE

There can be no question that as applied to Mr. Norman and other CWFL holders, the ban on open carry operates as a restriction on their right to bear arms unless they do so in the approved manner, which is concealed. There is absolutely no evidence that from the time of 1893 when a license was first required to carry a Winchester repeater, until 1987 when the Legislature banned open carry for even licensees, that the open carry of firearms was an issue. There is no evidence that it resulted in any harm. In recent years there has been a resurgence of interest in exercising this most fundamental right, even to the extent of de-regulating open carry entirely, and not one state has turned back after restoration of this right.

V. RESPONSE TO AMICUS

It is unclear how a 1987 statute can be *longstanding* when the ordinance at issue in *Heller I* was at least fifteen years older and did not survive under the Supreme Court's understanding of longstanding. Additionally this is a case of first impression. This statute has never been challenged in this state, and similar statutes have rarely been challenged elsewhere because bans on open carry are exceedingly rare.

Amicus's brief attempts to mislead this Court. It points to what it calls early American enactments of the Statute of Northhampton. One of the statutes it relies upon is 1801 Tenn. Laws 710, § 6. (Amicus Appx. 28). However, a later version of this same statute was struck down in the case of *Andrews v. State*, 50 Tenn. 165 (Tenn. 1871), as a violation of the right to bear arms. *Andrews* is the same case that Respondent here, has asked the U.S. Supreme Court to confirm as important to an analysis of the right to bear arms. (Kachalsky Brief, p. 12).

Amicus's reliance upon *longstanding* laws presumably indicates that Amicus would also support the enforcement of other longstanding laws, some of which are included within the appendix it filed with this Court.[7] Appendix 1 through 21 is

[7] The only regulation the U.S. Supreme Court referred to as being longstanding in *Heller I*, was the prohibition on possession by felons and the mentally ill. *Heller* at 626

replete with the types of laws protested in our Declaration of Independence enacted against a people who had no "right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only." (Declaration of Independence).

Perhaps Amicus also believes that longstanding laws prohibiting one from allowing a slave or free person of color to sample any cotton. (See Appx. 99). Security guards were illegal without the permission of parliament. (Appx. 6). Or maybe Amicus seeks a return to the blue laws prohibiting the unloading of a steamboat or cart on the sabbath. (Appx. 118). Also, trading with the Roman church, took one out of the protection of the King. (Appx. 8). Use of bad language can also be forbidden despite the First Amendment by long-standing laws. (Appx. 121).

Only if a person had no cause to fear assault and only if another person had a reasonable fear that the first would breach the peace, could the first person be ordered to obtain a surety. (Appx. 64). This is directly contrary to the facts here, where the right is denied until a person obtains permission, regardless of any proof that they are a threat to anyone. Given the statistical record of Florida's CWFL holders, there is no proof that these individuals should be denied the right to open carry. Only .32 percent, or roughly 1/3 of one percent of the issued license have ever been revoked for any reason. In the first twenty-three years, only 168 of the total revocations were for misuse of a firearm.

http://www.freshfromflorida.com/content/download/7499/118851/cw_monthly.pdf (Last visited March 9, 2016)

Consistent with Petitioner's argument and the decision of the Alabama Supreme Court in *Reid*, 1 Ala. 612 (Ala. 1840), 1854 Ala. Laws 588, §3274, only prohibited the concealed carry, not the open carry of firearms. (Appx. 97).

Amicus attempts to use the Statute of Northhampton's existence after the English Bill of Rights of 1689, which the *Heller* Court understood as the predecessor to our Second Amendment, *Heller I* at 593, to claim that it was accepted by the colonist and the founding fathers. Amicus ignores that the English Bill of Rights was only a limitation on the Crown and not on the Parliament which passed the Statute of Northampton. Also, unlike contemporary U.S. law the right could be denied on the basis of one's religion. *Heller* at 593.

Amicus offers this Court a parade of statutes and decisions it claims contradict the holdings of the *Heller* and *McDonald* courts. It seeks to have this Court repudiate the historical analysis of the U.S. Supreme Court in favor of its own analysis, an invitation this Court should decline. See, *Moore v. Madigan* at 935. In *McDonald*, the U.S. Supreme Court found that because the right to bear arms was "fundamental to *our* scheme of ordered liberty," it should be incorporated against the states. *McDonald* at 767 (emphasis in original). Those decisions are not for this

Court to overturn.

McDonald made clear that while other nations may have a different concept of liberty and the right to bear arms, for the purpose of legal analysis, the history of this country's right to bear arms is settled law. The right to bear arms is the right to an effective means of self defense. The right to carry openly has always been viewed as the protected expression of that right. See, *Bliss v. Commonwealth*, 12 Ky. 90 (Ky. 1822); *State v. Reid*, 1 Ala. 612 (Ala. 1840); *Nunn v. State*, 1 Ga. 243 (Ga. 1846)(court struck down prohibition on open carry and upheld prohibition on concealed carry); and *State v. Chandler*, 5 La. Ann. 489 (La. 1850).

Neither the Respondent or Amicus has offered any evidence, much less substantial evidence that the regulation at issue is narrowly tailored, or even substantially tailored to achieve the state's general interest in public safety. See, *Heller III*, 801 F.3d 264, 227 (D.C. Cir. 2015). Instead, Amicus relies on a historical analysis that has been twice rejected by the U.S. Supreme Court twice. See, *Heller I* and *McDonald*.

Absent some evidence from the state that its ban on open carry better protects the right and the ability of self defense than allowing open carry, there is only one conclusion this Court can reach. The people have the right to carry a firearm that is not concealed unless and until there is evidence that government restrictions on that

right are narrowly tailored to achieve the government's legitimate public safety interest.

CONCLUSION

The right to bear arms in this state was first restricted because of skin color. It is now restricted to those who pay a tax, prove specialized training and endure a delay for processing of their application, and only if they do not let anyone knwo they are exercising their right to bear arms. No tax, training, or application is required to exercise any other right in the Declaration of Rights or the Bill of Rights. The right to bear arms should be no different.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished this 10th day of March, 2016, via electronic service and e-mail, to the following:

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CERTIFICATE OF COMPLIANCE

I hereby certify that the type used in this brief is 14 point proportionally spaced, Times New Roman.

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