

IN THE SUPREME COURT OF FLORIDA

DALE NORMAN,

Appellant,

v.

Case No: SC15-650

L.T. Case No: 4D12-3525

STATE OF FLORIDA,

Appellee.

_____ /

**MOTION FOR LEAVE TO FILE AMICUS BRIEF
IN SUPPORT OF APPELLANT BY THE
NATIONAL RIFLE ASSOCIATION OF AMERICA**

Pursuant to Florida Rule of Appellate Procedure 9.370, the National Rifle Association of America (NRA) moves for leave to appear as *amicus curiae* and to file its brief in support of the Appellant, Dale Norman.

1. **Interest:** The NRA is the nation's oldest and largest organization dedicated to defending the fundamental, inalienable human right of all Americans to bear arms for self-preservation without fear of unjust prosecution. As of March 26, 2016, the NRA has almost 300,000 members living in Florida, and tens of thousands of other NRA members visit Florida each year. A decision holding that open and peaceful bearing of arms is not constitutionally protected conduct would expose these NRA members to legal jeopardy and defense costs. Therefore, it is critical that this Court hold that the open and peaceful bearing of arms is constitutionally protected conduct.

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2. **Issues:** The Fourth District Court of Appeal held that a citizen is permitted to carry a firearm for self-defense concealed under Florida’s “shall issue” statutory concealed license standard, and, therefore, the statutory scheme is not so unduly restrictive as to destroy the right to bear arms for self-defense. *Norman v. State*, 159 So.3d 205 (Fla. 4th DCA 2015). Did the Court of Appeal err in upholding the statute criminalizing the open carrying of a firearm against the right to bear arms because the statute did not effectively preclude a citizen’s exercise of his or her right to carry a firearm in public for self-defense?

3. **Assistance by the NRA:** The NRA was deeply involved in advocating for legislation providing for the open carrying of arms in Florida in 2016. HR-163 (Rep. Matt Gaetz and 16 co-sponsors) <http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=55017> and SB-300 (Sen. Don Gaetz) <http://www.flsenate.gov/Session/Bill/2016/0300>. NRA has also been involved in advocating for similar legislation in other states. It has filed briefs in two momentous U.S. Supreme Cases: *District of Columbia v. Heller*, 554 U.S. 570 (2008), and *McDonald v. Chicago*, 130 S.Ct. 3020 (2010). NRA believes *Heller* yields two important conclusions: (1) the Second Amendment guarantees a right to carry arms outside the home, and (2) it guarantees a right to carry openly. The one set of sources consulted by the Supreme Court that speaks unequivocally on the right to carry—antebellum state

supreme court cases—teaches that open carry of arms is protected. Any other result would be inconsistent with *Heller*'s approach and with the sources on which it relies. Instead, a faithful reading of *Heller* requires constitutionally protected open carry. See Note, Jonathan Meltzer, *Open Carry for All: Heller and Our Nineteenth-Century Second Amendment*, 123 Yale L. J. 1118 (March 2014).

Amicus curiae Everytown for Gun Safety presents a flawed argument that Florida could ban any carrying of arms based on ancient English law; colonial law; and state and local laws predating *District of Columbia v. Heller*, 554 U.S. 570 (2008). This is where history written as advocacy overlooks evidence contrary to the desired conclusion. David T. Hardy, *Lawyers, Historians, and "Law-Office History,"* 46 Cumberland L. Rev. 1 (2016).

NRA's amicus curiae brief will present evidence contrary to Everytown's claims. A few examples will be given here.

Unlike in England, in America the constitution reigns supreme. *Vanhorne's Lessee v. Dorrance*, 2 U.S. (2 Dall.) 304, 308 (U.S. Cir. Ct. Dist. Pa. 1795). Constitutional guarantee to keep and bear arms completely abrogates English Statute of Northampton and common law. *Simpson v. State*, 13 Tenn. (5 Yer.) 356, 359-60 (1833). Statute of Northampton, 2 Edward III, Ch. 3, was made in affirmance of the common law. However, American courts did not interpret it as a ban on carrying arms outside the home, unless it was for a "wicked purpose."

State v. Huntley, 25 N.C. (3 Ired.) 418, 423 (1843). Ordinances or laws banning the carrying of arms in a city, town, or village have been struck down as an infringement of the right to keep and bear arms. *In re Brickey*, 70 P. 609 (Idaho 1902); *State v. Rosenthal*, 55 A. 610 (Vt. 1903); *Glasscock v. City of Chattanooga*, 11 S.W.2d 678 (Tenn. 1928); *City of Las Vegas v. Moberg*, 485 P.2d 737 (N.M. App. 1971). A law banning the open carrying of a pistol off one's premises is a violation of the right to keep and bear arms. *State v. Kerner*, 107 S.E. 222 (N.C. 1921). A law banning the carrying of a pistol without a license is a violation of the right to keep and bear arms. *State ex rel. City of Princeton v. Buckner*, 377 S.E.2d 139 (W. Va. 1988).

Based on its nationwide experience, the NRA will assist the Court in the disposition of the case by discussing the effect of the right to keep and bear arms on English, colonial, state and local laws.

4. **Consent of the Parties**: All parties to this matter have consented to the filing of this brief pursuant to Rule 9.370(a).

Dated this 7th day of April, 2016.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via e-service to the following this 7th day of April, 2016:

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