

IN THE SUPREME COURT OF THE STATE OF FLORIDA

DALE LEE NORMAN,
Petitioner,

CASE NO.: SC15-650

vs.

DCA NO.: 4D12-3525

STATE OF FLORIDA,
Respondent.

_____ /

**PETITIONER'S RESPONSE TO MOTION OF EVERYTOWN FOR GUN SAFETY FOR
LEAVE TO FILE A BRIEF AS AMICUS CURIAE IN SUPPORT OF RESPONDENT**

COMES NOW the Petitioner DALE LEE NORMAN, by and through his undersigned counsel, and responds and objects to the motion by Everytown for Gun Safety, for leave to file an amicus curiae brief in support of the Respondent, and as grounds therefore states:

1. Everytown for Gun Safety (hereinafter "Everytown") seeks to file amicus brief in support of Respondent.
2. Everytown cites two prior cases, *Wrenn v. Dist. of Columbia*, No. 15-162 (D.C. Cir.) and *Peruta v. San Diego*, 742 F.3d 1144 (2014) in which it has filed similar amicus briefs, claiming that the right to bear arms outside the home can be so restricted in populated areas, as to make the right nearly non-existent.
3. In these prior cases Everytown has argued that the history of English law, well before the enactment of the right to bear arms in the federal and state constitutions, and early American laws contradict any claim that the right to bear arms outside the home was a fundamental, individual right. Everytown further claims that this history allows for significant restrictions on the right to bear arms.
4. The position of Everytown has been rejected not only by the court below, and significant case law in Florida, but also by the parties to this action who have both agreed that

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there is a fundamental individual right to bear arms outside the home. See, Respondent Brief on the Merits, Pg. 12.

5. The primary questions presented in this case are not related to whether there is a right to bear arms outside one's home in Florida, but whether the license is an adequate protection of that right, and whether the statute as issue is constitutional as applied to holders of a Concealed Weapons Firearms License.

6. Everytown claims a need to address the fact that the Ninth Circuit's decision in *Peruta v. San Diego*, 742 F.3d 1144 (9th Cir. 2014), relied upon by the Court below, has been vacated and is being reconsidered en banc.

7. Consistent with undersigned counsel's ethical obligations of candor toward the tribunal, this has already been discussed and brought to the Court's attention and is cited in Petitioner's Initial Brief to this Court, (Petitioner's Initial Brief on the Merits, Pg. 34) and is not addressed in the State's Brief on the Merits.

8. In the prior amicus appearances it cites in its motions, Everytown has sought to rely on statutes passed by the English Crown, whose attempts to seize the arms of the American colonists were the genesis for the constitutional right to bear arms we enjoy today.

9. Attempts to include the 1328 Statute of Northampton have no place in this case, especially in light of this Court's decision in *Watson v. Stone*, 4 So. 2d 700 (Fla. 1941) and the acknowledgments of the concurring opinion to that case, which provide all of the historical background necessary in this case.

10. Additionally, the decision of the United States Supreme Court in *District of Columbia v. Heller*, 554 U.S. 570 (2008), has foreclosed the historical analysis that Everytown would seek to have this Court engage in:

The parties and the amici curiae have treated us to hundreds of pages of argument, in nine briefs. The main focus of these submissions is history. The supporters of the Illinois law present historical evidence that there was no generally recognized private right to carry arms in public in 1791, the year the Second Amendment was ratified—the critical year for determining the amendment's historical meaning, according to *McDonald v. City of Chicago*, supra, 130 S. Ct. at 3035 and n. 14.
...

The Supreme Court rejected the argument. The appellees ask us to repudiate the Court's historical analysis. That we can't do. Nor can we ignore the implication of the analysis that the constitutional right of armed self-defense is broader than the right to have a gun in one's home.

Moore v. Madigan, 702 F.3d 933, 935 (7th Cir. 2012).

11. Mississippi Carry, Inc., sought to file a brief in support of Petitioner and was denied by this Court.

12. Allowing Everytown to file an amicus brief in this case, after denying Mississippi Carry's request would likely cause Petitioner to require extra pages to address the claims of Everytown.

WHEREFORE, Petitioner objects to Everytown's motion for leave to file a brief as amicus curiae, and respectfully requests this Court deny the same, or in the alternative, allow Petitioner an extra allotment of pages for his brief to respond to the brief of Everytown.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served via e-service
this 25th day of January 2016 to the attached Service List

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/s/ Eric J. Friday

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