

**IN THE DISTRICT COURT OF APPEAL OF FLORIDA
FOURTH DISTRICT**

JAYLEN T. EUBANKS,)	APPEAL NO.: 4D2025-1698
Appellant)	
)	
V.)	LT. NO: 24-5748 CF10A
)	(Broward County)
)	
STATE OF FLORIDA,)	
Appellees)	
_____)	

**STATE ATTORNEY’S OFFICE MOTION FOR LEAVE
TO FILE AN AMICUS BRIEF**

COMES NOW, the State Attorney’s Office of the 17th Judicial Circuit, by and through the undersigned Assistant State Attorney, and moves this Honorable Court for leave of this Honorable Court to file an amicus brief in the above styled matter, pursuant to Rule 9.370 of the Florida Rules of Appellate Procedure. As grounds for this motion, the State Attorney’s Office of the 17th Judicial Circuit would allege as follows:

1. Appellant, Jaylen Eubanks was charged by information with one count of carrying a concealed firearm and one count of improper

exhibition of a weapon. On May 29, 2025, Appellant pled no contest to the charges, reserving his right to appeal a motion to dismiss the information based on unconstitutionality of the statute. Pursuant to plea negotiation, Appellant was sentenced to withholding of adjudication and 24 months of probation for carrying a concealed firearm and a concurrent withholding of adjudication and 12 months of probation for improper exhibition of a weapon.

2. Prior to pleading no contest, the Appellant, through counsel, filed a motion to declare F.S. § 790.01(3) unconstitutional as applied to the Appellant, who was 18 years old at the time of the commission of the crimes charged in the information. After the State responded to the motion, the Court denied the motion on March 24, 2025.

3. The State Attorney's Office of the 17th Judicial Circuit was informed on February 5, 2026 by the Solicitor General's Office that a concession of error would be filed in this matter on February 6, 2026. The answer brief filed by the Solicitor General on February 6, 2026 concedes that the conviction for carrying a concealed firearm should be overturned.

4. Although the State Attorney's Office of the 17th Judicial Circuit is aware of the limitations of its appearance in this Court

pursuant to F.S. § 16.01, and the requirement that any amicus brief pursuant to Fla.R.App.P. 9.370 be filed within 10 days of the filing of the initial brief, the decision of the Solicitor General to concede error is contrary to the position of the State Attorney.

5. The interest of the State Attorney in upholding the Order of the trial court are consistent with the intent of the legislature and with the historical tradition of firearms regulation. The filing of this concession prevents legitimate arguments from being presented before this Honorable Court, which would support the affirmance of the Order of the trial court. As noted by the Florida Supreme Court, statutes are presumed to be constitutional and must be construed whenever possible to effect a constitutional outcome. *Brinkmann v. Francois*, 184 So.3d 504 (Fla. 2016). The concession by the Solicitor General on this point deprives this Court from conducting the review of the finding of the trial court, contrary to the wishes of the people of the State of Florida and the Seventeenth Judicial Circuit.

6. Undersigned Counsel has contacted Chief Deputy Solicitor General Nathan Forrester, Attorney for the Appellee, and Assistant Public Defender Ethan Goldberg, Attorney for the Appellant, who object to the granting of the motion.

WHEREFORE, Appellant, the State Attorney's Office of the 17th Judicial Circuit, respectfully requests this Honorable Court to grant leave for the State Attorney's Office of the 17th Judicial Circuit to file a brief as an amicus curiae in the above styled matter.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of the foregoing was furnished by e-mail to all counsel of record identified in the service list this 6th day of February, 2026.

HAROLD F. PRYOR
State Attorney

By: /s/Joel Silvershein
JOEL SILVERSHEIN
Assistant State Attorney
Florida Bar #608092
Room 07130
201 S.E. 6th Street
Fort Lauderdale, Florida
33301
Telephone: (954)831-7913
courtdocs@sao17.state.fl.us
jsilvershein@sao17.state.fl.us