



APPLICATION FOR NOMINATION TO THE
VOLUSIA COUNTY COURT
7TH JUDICIAL CIRCUIT

AMY MOORE





APPLICATION FOR NOMINATION TO THE VOLUSIA COUNTY COURT

Instructions: Respond fully to the questions asked below. Please make all efforts to include your full answer to each question in this document. You may attach additional pages, as necessary, however it is discouraged. In addition to the application, you must provide a recent color photograph to help identify yourself.

Full Name: Amy Moore

Social Security No.: [REDACTED]

Florida Bar No.: 95674 **Date Admitted to Practice in Florida:** 4/27/2012

1. Please state your current employer and title, including any professional position and any public or judicial office you hold, your business address and telephone number.

Employer: State Attorney's Office for the 18th Judicial Circuit
State Attorney William Scheiner
Title: Assistant State Attorney, Division Chief Domestic Violence Unit
Address: 91 Eslinger Way, P.O. Box 8006, Sanford, FL 32773
Telephone: 407-665-6222

2. Please state your current residential address, including city, county, and zip code. Indicate how long you have resided at this location and how long you have lived in Florida. Additionally, please provide a telephone number where you can be reached (preferably a cell phone number), and your preferred email address.

Address: [REDACTED]
Duration: 3 years (Purchased in November 2021)
Florida Resident: 39 years
Volusia County Resident: 38 years
Cell Number: [REDACTED]
Email: [REDACTED]

3. State your birthdate and place of birth.

DOB: January 15, 1986
Place of Birth: Harrisburg, Pennsylvania

4. Are you a registered voter in Florida (Y/N)?

Yes

5. Please list all courts (including state bar admissions) and administrative bodies having special admissions requirements to which you have ever been admitted to practice, giving the dates of admission, and if applicable, state whether you have ever been suspended or resigned. Please explain the reason for any lapse in membership.

Florida Bar, Admitted April 2012 to Present. I have never been suspended or resigned from the Florida Bar.

6. Have you ever been known by any aliases? If so, please indicate and when you were known by such alias.

No

EDUCATION:

7. List in reverse chronological order each secondary school, college, university, law school or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, the date the degree was received, class standing, and graduating GPA (if your class standing or graduating GPA is unknown, please request the same from such school).

Law School: Florida A & M University College of Law
August 2008 – December 2011
Degree Received: Juris Doctor awarded on 12/16/11
GPA: 2.730
Class Rank: 22/30

Undergraduate: University of Central Florida
August 2004 – May 2008
Degree Received: Bachelor of Science awarded on 5/2/08
GPA: 3.363
Class Rank: UCF does not have class ranking

College: Daytona Beach Community College
January 2002 – May 2002
Degree Received: n/a – I was dual enrolled during high school
GPA: 3.75
Class Rank: n/a

High School: Atlantic High School
August 2000 – May 2004
Degree Received: High School Diploma awarded on 5/26/04
GPA: 3.9850
Class Rank: 25/330

8. List and describe any organizations, clubs, fraternities or sororities, and extracurricular activities you engaged in during your higher education. For each, list any positions or titles you held and the dates of participation.

Phi Alpha Delta Florida A & M University College of Law Chapter: Member, 2008-2009

Phi Alpha Delta University of Central Florida Chapter: President and Fundraising Chair, 2004-2008

Lead Scholars: Member, 2004 - 2006

Kappa Kappa Gamma Social Sorority: Member, 2004-2005

EMPLOYMENT:

9. List in reverse chronological order all full-time jobs or employment (including internships and clerkships) you have held since the age of 21. Include the name and address of the employer, job title(s) and dates of employment. For non-legal employment, please briefly describe the position and provide a business address and telephone number.

State Attorney's Office for the 18th Judicial Circuit
101 Eslinger Way, P.O. Box 8006, Sanford, FL 32772
Assistant State Attorney: Division Chief Domestic Violence Unit, Domestic Violence Strike
Back Trial Attorney (Repeat Domestic Violence Abuser Prosecutor), Domestic Violence Intake
Attorney
June 2018 to present

Simoes & Davila
2170 West State Road 434, Suite 450, Longwood, FL 32779
Personal Injury Protection - Plaintiff Attorney
February 2018 to June 2018

State Attorney's Office for the 18th Judicial Circuit
101 Eslinger Way, P.O. Box 8006, Sanford, FL 32772
Assistant State Attorney: Domestic Violence Intake Attorney, Misdemeanor Trial Attorney
September 2012 to February 2018

State Attorney's Office for the 18th Judicial Circuit
101 Eslinger Way, P.O. Box 8006, Sanford, FL 32772
Certified Legal Intern – Misdemeanor Division
August 2011 – December 2011

Bonnie A. Berns, P.A.
1360 N. U.S. Highway 1, Suite 101
Ormond Beach, FL 32774
Legal Secretary – Personal Injury
February 2010 – June 2010

Robert E. Fenster, P.A.
3775 Brantley Place Circle
Apopka, FL 32703
Legal Secretary – Personal Injury
September 2007 – April 2009

10. Describe the general nature of your current practice including any certifications which you possess; additionally, if your practice is substantially different from your prior practice or if you are not now practicing law, give details of prior practice. Describe your typical clients or former clients and the problems for which they sought your services.

Currently, I serve as the Division Chief of the Domestic Violence Unit in Seminole County. In this role, I am responsible for overseeing the initial prosecution of domestic violence cases, including making felony intake decisions, supervising attorneys, and ensuring the fair and effective handling of these sensitive matters. My work involves evaluating evidence, determining appropriate charges, and coordinating with law enforcement, victim advocates, and others to ensure justice and victim safety.

My experience includes handling a broad range of felony and misdemeanor cases, including domestic violence, aggravated battery, and other violent offenses. Over the years, I have developed a strong understanding of the complexities of these cases, particularly those involving reluctant witnesses, evidentiary challenges, and the intersection of criminal law with family dynamics.

My role requires me to balance the interests of justice, public safety, and fairness to all parties involved. I work closely with victims who seek protection and justice, as well as with law enforcement officers and community organizations dedicated to preventing domestic violence.

11. What percentage of your appearance in court in the last five years or in the last five years of practice (include the dates) was:

Court		Area of Practice	
Federal Appellate	_____ %	Civil	_____ %
Federal Trial	_____ %	Criminal	<u>100</u> %
Federal Other	_____ %	Family	_____ %
State Appellate	_____ %	Probate	_____ %
State Trial	_____ %	Other	_____ %
State Administrative	_____ %		
State Other	_____ %		
TOTAL	<u>100</u> %	TOTAL	<u>100</u> %

If your appearance in court the last five years is substantially different from your prior practice, please provide a brief explanation:

12. In your lifetime, how many (number) of the cases that you tried to verdict, judgment, or final decision were:

Jury?	<u>14</u>	Non-jury?	<u>3</u>
Arbitration?	_____	Administrative Bodies?	_____
Appellate?	<u>2</u>		

13. Please list every case that you have argued (or substantially participated) in front of the United States Supreme Court, a United States Circuit Court, the Florida Supreme Court, or a Florida District Court of Appeal, providing the case name, jurisdiction, case number, date of argument, and the name(s), e-mail address(es), and telephone number(s) for opposing appellate counsel. If there is a published opinion, please also include that citation.

Not Applicable

14. Within the last ten years, have you ever been formally reprimanded, sanctioned, demoted, disciplined, placed on probation, suspended, or terminated by an employer or tribunal before which you have appeared? If so, please state the circumstances under which such action was taken, the date(s) such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action.\

No

15. In the last ten years, have you failed to meet any deadline imposed by court order or received notice that you have not complied with substantive requirements of any business or contractual arrangement? If so, please explain full.

No

16. For your last six cases, which were tried to verdict or handled on appeal, either before a jury, judge, appellate panel, arbitration panel or any other administrative hearing officer, list the names, e-mail addresses, and telephone numbers of the trial/appellate counsel on all sides and court case numbers (include appellate cases). *This question is optional for sitting judges who have served five years or more.*

State v. Marvin Killingsworth III, Case Number: 21-1984CFA

Co-Counsel: Paul Brill, e-mail: pbrill@sa18.org, phone: 407-665-6101

Opposing Counsel: Natasa Ghica, e-mail: nghica@pd18.net, phone: 407-834-5297

State v. Courtney Brooks, Case Number: 21-2025CFA

Co-Counsel: Monica Hale, e-mail: mhale@sa18.org, phone: 407-665-6101

Opposing Counsel: J.P. Gilbert, e-mail: jean-pierre_gilbert@fd.org, phone: 305-536-6900

State v. Melissa Diller, Case Number: 20-1680mma

Co-Counsel: Robert Sutton, e-mail: robertnsutton@outlook.com, phone: 321-206-5652

Opposing Counsel: Adam Pollack, e-mail: adampollack@orl-law.com, phone: 407-834-5297

State v. Marquis DelCampo, Case Number: 17-00683mma

Co-Counsel: Jigisa Patel, e-mail: jigisa.dookhoo@FLCourts18.org, phone: 321-617-7281

Opposing Counsel: J.P. Gilbert, e-mail: jean-pierre_gilbert@fd.org, phone: 305-536-6900

State v. Gregory Floyd, Case Number: 14-00224mma

Co-Counsel: Jacqueline Grossi, e-mail: jgrossi@cfl.rr.com, phone: 321-247-1003

Opposing Counsel: Christen Keller, e-mail: ckeller@ckellerlaw.com, phone: 239-850-6280

Opposing Counsel: Nicholas Krampert, email: krampertn@sao7.org, phone: 407-822-6400

State v. Diderot Suffrena, Case Number: 13-3840mma

Opposing Counsel: Peter Zies, e-mail: pzies@defensegroup.com, phone: 407-831-1956

17. For your last six cases, which were either settled in mediation or settled without mediation or trial, list the names and telephone numbers of trial counsel on all sides and court case numbers (include appellate cases). *This question is optional for sitting judges who have served five years or more.*

State v. Shannon Day, 21-2494CFA (pled on 10/11/2022)

Opposing Counsel: Bryce Fetter, phone: 407-740-7275, email: bryce@brycefetter.com

State v. Mikkell Basey, 22-00816CFA (pled on 5/17/2022)

Opposing Counsel: Erin Johnson, phone: 971-718-4172, email: lawgirlee@yahoo.com

State v. Trenton Blank, 21-2027CFA (pled on 4/7/2022)

Opposing Counsel: Matthews Bark, phone: 407-865-8888, email: sue.mrblaw@gmail.com

State v. Elias Gonzalez Rosado, 21-1803CFA (pled on 3/30/2022)

Opposing Counsel: Alpheus Parsons, phone: 407-665-4524, email: aparsons@pd18.net

State v. Davis Mabrey, 21-2110CFA (pled on 3/15/2022)

Opposing Counsel: Heiko Moenckmeier, phone: 352-219-7068, email: heikogeorge@gmail.com

State v. Jerome Jones, 21-2623CFA (pled 3/3/2022)

Opposing Counsel: Alpheus Parsons, phone: 407-665-4524, email: aparsons@pd18.net

18. During the last five years, on average, how many times per month have you appeared in Court or at administrative hearings? If during any period you have appeared in court with greater frequency than during the last five years, indicate the period during which you appeared with greater frequency and succinctly explain.

Currently, in my role handling felony intake, my court appearances are limited to occasions when necessary or specific hearings requiring my involvement. I do represent the State Attorney's Office for initial appearances on the weekend on occasion. However, when I was in a trial position, I appeared in court approximately 15 or more times per month, actively litigating cases and handling various hearings. My current responsibilities focus on reviewing cases, making charging decisions, and ensuring the proper handling of domestic violence prosecutions at the intake stage.

19. If Questions 16, 17, and 18 do not apply to your practice, please list your last six major transactions or other legal matters that were resolved, listing the names, e-mail addresses, and telephone numbers of the other party counsel.

Not applicable

20. During the last five years, if your practice was greater than 50% personal injury, workers' compensation or professional malpractice, what percentage of your work was in representation of plaintiffs or defendants?

Not applicable

21. List and describe the five most significant cases which you personally litigated giving the case style, number, court and judge, the date of the case, the names, e-mail addresses, and telephone numbers of the other attorneys involved, and citation to reported decisions, if any. Identify your client and describe the nature of your participation in the case and the reason you believe it to be significant.

State v. James Diehl, Case Number: 20-2296CFA,

Judge: Honorable Melanie Chase

Assisting Counsel: Anna Valentini, email: avalentini@sa18.org, phone number: 407-665-6101

J.P. Gilbert, e-mail: jgilbert@pd18.net, phone: 407-665-4525

As lead prosecutor, I represented the State in the prosecution of James Diehl for Possession of a Firearm by a Convicted Felon and Felony Battery. This case was particularly significant due to the defendant's history of violence and the lasting fear he instilled in the victim. Through meticulous preparation and strategic litigation, I successfully secured a conviction, resulting in a 7-year sentence in the Department of Corrections, followed by 3 years of probation. Additionally, the court designated Mr. Diehl as a Habitual Felony Offender, ensuring enhanced sentencing. This outcome provided the victim with long-overdue justice and protection, reinforcing the State's commitment to holding repeat offenders accountable.

State v. Marcus Randolph, Case Number: 20-1320CFA,

Judge: Honorable Melanie Chase

Assisting Counsel: Anna Valentini, email: avalentini@sa18.org, phone number: 407-665-6101

Opposing Counsel: Michael Schoenberg, email: mschoenberg@pa18.net, phone numbers: 407-665-4525

As lead prosecutor, I represented the State in the prosecution of Marcus Randolph for Felony Battery. The defendant brutally attacked his girlfriend inside a PDQ restaurant in the presence of a minor child, causing the victim injury. Given the severity of the assault and the traumatic impact on both the victim and the child witness, I pursued the case aggressively to ensure accountability. My efforts resulted in a conviction and a 5-year sentence in the Department of Corrections.

State v. Shanon Day, Case Number: 20-03006mma and 20-3012mma

Judge: Honorable Jeri Collins (original) and Honorable Wayne Culver (current)

Opposing Counsel: Mark Longwell, email: mlongwell@longwelllawyers.com, phone number: 407-426-5757

Opposing Counsel: Michael LaFay, email: lafaym@nejamelaw.com, phone number: 407-500-0000

Opposing Counsel: Leroy Costner, email: lcostner@thelawman.net, phone number: 407-228-3838

Opposing Counsel: Taylor Connor, email: tconnor@pd18.net, phone number: 407-665-4519

Opposing Counsel: Amir Ladan, email: amir@ladanlaw.com, phone number: 407-487-2522

As lead prosecutor, I represented the State in the prosecution of Shanon Day, a defendant with a history of violating an Injunction for Protection. This case was significant not only due to the defendant's continued disregard for the court's orders but also because of the victim's remarkable journey. She was deeply entrenched in the cycle of domestic violence, marked by power and control dynamics, but through the course of the case, she received vital services and support. Witnessing her transformation—gaining strength, independence, and the ability to reclaim her life—was one of the most rewarding aspects of my role as a prosecutor. This case reinforced the importance of holding offenders accountable while ensuring that survivors receive the resources they need to break free from abusive situations.

State v. Diderot Suffrena, Case Number: 13-3840mma

Judge: Honorable Mark Herr

Opposing Counsel: Peter Zies, e-mail: pzie@defensegroup.com, phone: 407-831-1956

As lead prosecutor, I represented the State in the prosecution of Diderot Suffrena for stalking, a case that deeply impacted the victim's sense of safety and security. The defendant terrorized the victim by repeatedly threatening to appear at her home and workplace. Neighbors witnessed him near her residence, further validating her fear. The situation escalated to the point where the victim felt compelled to stay at a hotel and kennel her dogs to prevent potential harm, ultimately refusing to return home out of sheer terror. At trial, I secured a guilty verdict, and the defendant was sentenced to 364 days in jail as a condition of probation. This case was significant because it reinforced the justice system's role in protecting stalking victims, holding offenders accountable, and ensuring that those who instill fear in others face meaningful consequences.

State v. Henry Brown, 1715m18784

Judge: n/a

Opposing Counsel: n/a

As a prosecutor, I was responsible for reviewing and determining the appropriate course of action in the case against Henry Brown, which was presented as a non-arrest/capias request. After thoroughly evaluating the evidence, I determined that the legal standard for filing charges was not met, and as such, I declined to move forward. However, I ensured that the victim was provided with resources, including a referral to Safe House of Seminole County, a domestic violence shelter.

Tragically, after this decision, the defendant murdered the victim and their two children, struck two other individuals with his car, engaged in a shootout with law enforcement, and ultimately took his own life. This case remains profoundly significant to me—not only because of its devastating outcome but because it underscores the weight of prosecutorial decisions.

When tragedies like this occur, it is natural to reflect on whether something could have been done differently. However, my decision in this case was made in full accordance with the law and my ethical obligations as a prosecutor. Even knowing the heartbreaking outcome, I recognize that justice requires adherence to the law, not hindsight-driven decisions. This case serves as a somber and permanent reminder of the immense responsibility prosecutors bear and the real-world consequences—sometimes tragic—that can unfold beyond our control.

22. Attach at least two, but no more than three, examples of legal writing which you personally wrote. If you have not personally written any legal documents recently, you may attach a writing sample for which you had substantial responsibility. Please describe your degree of involvement in preparing the writing you attached.

Please see attached.

- A. 2013 Answer Brief for the Appellee, written by Amy Moore for Seminole County Case 2012-2075mma in the State v. Jason Young
- B. 2013 Answer Brief for the Appellee, written by Amy Moore for Seminole County Case 2012-8626mma in the State v. Jerry Middleton

PRIOR JUDICIAL EXPERIENCE OR PUBLIC OFFICE

23. Have you ever held judicial office or been a candidate for judicial office? If so, state the court(s) involved, the dates of service or dates of candidacy, and any election results.

Not Applicable

24. If you have previously submitted a questionnaire or application to this or any other judicial nominating commission, please give the name(s) of the commission, the approximate date(s) of each submission, and indicate if your name was certified to the Governor's Office for consideration.

I submitted an application to the 7th Judicial Circuit Judicial Nominating Commission on July 29, 2021 for a position in St. John's County; my name was not certified to the Governor's Office for consideration.

25. List any prior quasi-judicial service, including the agency or entity, dates of service, position(s) held, and a brief description of the issues you heard.

Not Applicable

26. If you have prior judicial or quasi-judicial experience, please list the following information:

(i) the names, phone numbers and addresses of six attorneys who appeared before you on matters of substance;

(ii) the approximate number and nature of the cases you handled during your tenure;

(iii) the citations of any published opinions; and

(iv) descriptions of the five most significant cases you have tried or heard, identifying the citation or style, attorneys involved, dates of the case, and the reason you believe these cases to be significant.

Not Applicable

27. Provide citations and a brief summary of all of your orders or opinions where your decision was reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, attach copies of the opinions.

Not Applicable

28. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, attach copies of the opinions.

Not Applicable

29. Has a complaint about you ever been made to the Judicial Qualifications Commission? If so, give the date, describe the complaint, whether or not there was a finding of probable cause, whether or not you have appeared before the Commission, and its resolution.

Not Applicable

30. Have you ever held an attorney in contempt? If so, for each instance state the name of the attorney, case style for the matter in question, approximate date and describe the circumstances.

Not Applicable

31. Have you ever held or been a candidate for any other public office? If so, state the office, location, dates of service or candidacy, and any election results.

Not Applicable

NON-LEGAL BUSINESS INVOLVEMENT

32. If you are now an officer, director, or otherwise engaged in the management of any business enterprise, state the name of such enterprise, the nature of the business, the nature of your duties, and whether you intend to resign such position immediately upon your appointment or election to judicial office.

Not Applicable

33. Since being admitted to the Bar, have you ever engaged in any occupation, business or profession other than the practice of law? If so, explain and provide dates. If you received any compensation of any kind outside the practice of law during this time, please list the amount of compensation received.

Not Applicable

POSSIBLE BIAS OR PREJUDICE

34. The Commission is interested in knowing if there are certain types of cases, groups of entities, or extended relationships or associations which would limit the cases for which you could sit as the presiding judge. Please list all types or classifications of cases or litigants for which you, as a general proposition, believe it would be difficult for you to sit as the presiding judge. Indicate the reason for each situation as to why you believe you might be in conflict. If you have prior judicial experience, describe the types of cases from which you have recused yourself.

None

PROFESSIONAL ACCOMPLISHMENTS AND OTHER ACTIVITIES

35. List the titles, publishers, and dates of any books, articles, reports, letters to the editor, editorial pieces, or other published materials you have written or edited, including materials published only on the Internet. Attach a copy of each listed or provide a URL at which a copy can be accessed.

Not Applicable

36. List any reports, memoranda or policy statements you prepared or contributed to the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. Provide the name of the entity, the date published, and a summary of the document. To the extent you have the document, please attach a copy or provide a URL at which a copy can be accessed.

Not Applicable

37. List any speeches or talks you have delivered, including commencement speeches, remarks, interviews, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place they were delivered, the sponsor of the presentation, and a summary of the presentation. If there are any readily available press reports, a transcript or recording, please attach a copy or provide a URL at which a copy can be accessed.

Uncooperative Victims & Witnesses Presentation, Date: August 2024, Sponsor: Florida Prosecuting Attorneys Association.

I was honored to present at a Continuing Legal Education (CLE) seminar hosted by the Florida Prosecuting Attorneys Association, where I provided training to newer prosecutors on handling Domestic Violence cases involving uncooperative victims and witnesses. My presentation covered key strategies for filing charges without victim cooperation, building a case with alternative evidence, and successfully navigating trial with uncooperative or hostile witnesses. By sharing practical approaches and legal considerations, I aimed to equip prosecutors with the tools needed to hold offenders accountable while ensuring justice for victims who may be unwilling or unable to participate in the process.

Marsy's Law Update – Domestic Violence Task Force, Date: 6/5/24

I delivered a presentation to the Domestic Violence Task Force on Marsy's Law and the impact of a recent Florida Supreme Court ruling. My presentation covered key updates on victim's rights under Marsy's Law, legal interpretations stemming from the new ruling, and the practical implications for law enforcement, prosecutors, and victim advocates. The discussion focused on how the ruling affects victim confidentiality, case proceedings, and the balance between transparency and victim protection. This presentation provided essential guidance on how to adapt their practices to remain compliant while ensuring that victim's rights remain at the forefront of the criminal justice process.

Domestic Violence Panel, Date: 10/12/22, Sponsor; Seminole County Florida Association for Women lawyers

I participated in a Domestic Violence Panel alongside representatives from the Seminole County Sheriff's Office and Safe House of Seminole County, the local domestic violence shelter. This panel provided a comprehensive discussion on the legal, law enforcement, and victim advocacy perspectives of domestic violence cases. We addressed common challenges in prosecution, law enforcement response strategies, victim safety planning, and available resources for survivors. By collaborating with both law enforcement and victim advocates, we aimed to strengthen community partnerships and improve outcomes for domestic violence survivors through a more unified, informed approach.

Uncooperative Victims & Witnesses Presentation, Date: September 2021, Sponsor: Florida Prosecuting Attorneys Association.

I was honored to present at a Continuing Legal Education (CLE) seminar hosted by the Florida Prosecuting Attorneys Association, where I provided training to newer prosecutors on handling Domestic Violence cases involving uncooperative victims and witnesses. My presentation covered key strategies for filing charges without victim cooperation, building a case with alternative evidence, and successfully navigating trial with uncooperative or hostile witnesses. By sharing practical approaches and legal considerations, I aimed to equip prosecutors with the tools needed to hold offenders accountable while ensuring justice for victims who may be unwilling or unable to participate in the process.

Domestic Violence Training, Date: 2015, Place: Seminole County, Sponsor: State Attorney's Office 18th Judicial Circuit.

I co-presented a legal training seminar for local law enforcement on handling Domestic Violence cases. Our presentation covered common Domestic Violence charges, the evidentiary requirements for prosecution, recent case law developments, and best practices for responding to cross-complaints at the scene. By providing officers with a deeper understanding of the legal framework and prosecutorial considerations, we aimed to strengthen case investigations and improve outcomes for victims through more effective collaboration between law enforcement and the State Attorney's Office.

Inspiration & Perseverance: A Presentation to High School Students, Date: 4/17/2008, Place: Deland High School. Sponsor: Connie Schroyer.

I had the privilege of speaking to high school students, including at-risk youth, about the importance of perseverance, overcoming obstacles, and achieving success through hard work and determination. Drawing from my own experiences, I shared how I navigated challenges, including the absence of financial resources or a family history of higher education. I explained how I was able to attend the University of Central Florida through scholarships and a small student loan, emphasizing that while the path to success may be difficult, it is always attainable with dedication and resilience. My goal was to inspire students to believe in their potential, set ambitious goals, and never give up—no matter how long or challenging the journey may be.

- 38.** Have you ever taught a course at an institution of higher education or a bar association? If so, provide the course title, a description of the course subject matter, the institution at which you taught, and the dates of teaching. If you have a syllabus for each course, please provide.

Not Applicable

- 39.** List any fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement. Include the date received and the presenting entity or organization.

- Employee of the Month – 18th Circuit State Attorney’s Office, August 2023
- SAIL Award (Seminole County Florida Association for Women lawyers Award for Incredible Attorney), March 2023
- Employee of the Month – 18th Circuit State Attorney’s Office, January 2020
- Employee of the Month – 18th Circuit State Attorney’s Office, January 2016
- Dean’s List - Florida A & M University College of Law, December 2010
- Dean’s List – University of Central Florida, April 2008
- Outstanding President Award – UCF – Phi Alpha Delta, May 2007
- Dean’s List – University of Central Florida, May 2006

- 40.** Do you have a Martindale-Hubbell rating? If so, what is it and when was it earned?

No

41. List all bar associations, legal, and judicial-related committees of which you are or have been a member. For each, please provide dates of membership or participation. Also, for each indicate any office you have held and the dates of office.

Kiwanis Sanford/Lake Mary
Volunteer/Member from April 2022 to present
Seminole Inn of Court
Member from September 2021 to present
Seminole County Bar Association
Member from January 2024 to present
Seminole County Florida Association for Women Lawyers:
Member from September 2021 to present
Co-Chair of Table for 8 Monthly Events 2022-2023
Social Media Chair 2023-2025
Membership Director 2023-2025
Slated to be President-Elect for 2025-2026
Florida Prosecuting Attorneys Association
September 2012 – February 2018, June 2018 to present
Florida Bar Association
Member 2012 to present

42. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in the previous question to which you belong, or to which you have belonged since graduating law school. For each, please provide dates of membership or participation and indicate any office you have held and the dates of office.

Federalist Society, Member, 2021, 2024 to present

EIC (Employee Involvement Committee) 18th Judicial Circuit State Attorney's Office, Member (2018-present), President (June 2021 to January 2022)

Domestic Violence Task Force, Member, 2014 to present

Deland U.S. Naval Sea Cadet Corps, Deland Excellence Division, Auxiliary, August 2019 to May 2020

DeBary Cub Scouts, Assistant Cub Master, August 2015 to May 2019

43. Do you now or have you ever belonged to a club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion (other than a church, synagogue, mosque or other religious institution), national origin, or sex (other than an educational institution, fraternity or sorority)? If so, state the name and nature of the club(s) or organization(s), relevant policies and practices and whether you intend to continue as a member if you are selected to serve on the bench.

No

44. Please describe any significant pro bono legal work you have done in the past 10 years, giving dates of service.

Not applicable

45. Please describe any hobbies or other vocational interests.

My hobbies include photography, gardening, ceramic pottery, and trying my hand at making new culinary dishes.

46. Please state whether you have served or currently serve in the military, including your dates of service, branch, highest rank, and type of discharge.

Non Applicable

47. Please provide links to all social media and blog accounts you currently maintain, including, but not limited to, Facebook, Twitter, LinkedIn, and Instagram.

Facebook: www.facebook.com/amyllynmoore86

Instagram: <https://www.instagram.com/a3lynn12/>
<https://www.instagram.com/amymoorepottery/>

Twitter: <https://twitter.com/amylmoore86>

Linked In: <https://www.linkedin.com/in/amy-moore-341a7a52>

FAMILY BACKGROUND

48. Please state your current marital status. If you are currently married, please list your spouse's name, current occupation, including employer, and the date of the marriage. If you have ever been divorced, please state for each former spouse their name, current address, current telephone number, the date and place of the divorce and court and case number information.

Single

49. If you have children, please list their names and ages. If your children are over 18 years of age, please list their current occupation, residential address, and a current telephone number.

[REDACTED]

CRIMINAL AND MISCELLANEOUS ACTIONS

50. Have you ever been convicted of a felony or misdemeanor, including adjudications of guilt withheld? If so, please list and provide the charges, case style, date of conviction, and terms of any sentence imposed, including whether you have completed those terms.

No

51. Have you ever pled nolo contendere or guilty to a crime which is a felony or misdemeanor, including adjudications of guilt withheld? If so, please list and provide the charges, case style, date of conviction, and terms of any sentence imposed, including whether you have completed those terms.

No

52. Have you ever been arrested, regardless of whether charges were filed? If so, please list and provide sufficient details surrounding the arrest, the approximate date and jurisdiction.

No

53. Have you ever been a party to a lawsuit, either as the plaintiff, defendant, petitioner, or respondent? If so, please supply the case style, jurisdiction/county in which the lawsuit was filed, case number, your status in the case, and describe the nature and disposition of the matter.

No

54. To your knowledge, has there ever been a complaint made or filed alleging malpractice as a result of action or inaction on your part?

No

55. To the extent you are aware, have you or your professional liability carrier ever settled a claim against you for professional malpractice? If so, give particulars, including the name of the client(s), approximate dates, nature of the claims, the disposition and any amounts involved.

No

56. Has there ever been a finding of probable cause or other citation issued against you or are you presently under investigation for a breach of ethics or unprofessional conduct by any court, administrative agency, bar association, or other professional group. If so, provide the particulars of each finding or investigation.

No

57. To your knowledge, within the last ten years, have any of your current or former co-workers, subordinates, supervisors, customers, clients, or the like, ever filed a formal complaint or accusation of misconduct including, but not limited to, any allegations involving sexual harassment, creating a hostile work environment or conditions, or discriminatory behavior against you with any regulatory or investigatory agency or with your employer? If so, please state the date of complaint or accusation, specifics surrounding the complaint or accusation, and the resolution or disposition.

No

58. Are you currently the subject of an investigation which could result in civil, administrative, or criminal action against you? If yes, please state the nature of the investigation, the agency conducting the investigation, and the expected completion date of the investigation.

No

59. Have you ever filed a personal petition in bankruptcy or has a petition in bankruptcy been filed against you, this includes any corporation or business entity that you were involved with? If so, please provide the case style, case number, approximate date of disposition, and any relevant details surrounding the bankruptcy.

No

60. In the past ten years, have you been subject to or threatened with eviction proceedings? If yes, please explain.

No

61. Please explain whether you have complied with all legally required tax return filings. To the extent you have ever had to pay a tax penalty or a tax lien was filed against you, please explain giving the date, the amounts, disposition, and current status.

I have complied with all legally required tax return filings.

HEALTH

62. Are you currently addicted to or dependent upon the use of narcotics, drugs, or alcohol?

No

63. During the last ten years have you been hospitalized or have you consulted a professional or have you received treatment or a diagnosis from a professional for any of the following: Kleptomania, Pathological or Compulsive Gambling, Pedophilia, Exhibitionism or Voyeurism? If your answer is yes, please direct each such professional, hospital and other facility to furnish the Chairperson of the Commission any information the Commission may request with respect to any such hospitalization, consultation, treatment or diagnosis. ["Professional" includes a Physician, Psychiatrist, Psychologist, Psychotherapist or Mental Health Counselor.] Please describe such treatment or diagnosis.

No

64. In the past ten years have any of the following occurred to you which would interfere with your ability to work in a competent and professional manner: experiencing periods of no sleep for two or three nights, experiencing periods of hyperactivity, spending money profusely with extremely poor judgment, suffering from extreme loss of appetite, issuing checks without sufficient funds, defaulting on a loan, experiencing frequent mood swings, uncontrollable tiredness, falling asleep without warning in the middle of an activity. If yes, please explain.

No

65. Do you currently have a physical or mental impairment which in any way limits your ability or fitness to properly exercise your duties as a member of the Judiciary in a competent and professional manner? If yes please explain the limitation or impairment and any treatment, program or counseling sought or prescribed.

No

66. During the last ten years, have you ever been declared legally incompetent or have you or your property been placed under any guardianship, conservatorship or committee? If yes, provide full details as to court, date, and circumstances.

No

67. During the last ten years, have you unlawfully used controlled substances, narcotic drugs, or dangerous drugs as defined by Federal or State laws? If your answer is "Yes," explain in detail. (Unlawful use includes the use of one or more drugs and/or the unlawful possession or distribution of drugs. It does not include the use of drugs taken under supervision of a licensed health care professional or other uses authorized by Federal or State law provisions.)

No

68. In the past ten years, have you ever been reprimanded, demoted, disciplined, placed on probation, suspended, cautioned, or terminated by an employer as result of your alleged consumption of alcohol, prescription drugs, or illegal drugs? If so, please state the circumstances under which such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action

No

69. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs? If so, please state the date you were requested to submit to such a test, the type of test required, the name of the entity requesting that you submit to the test, the outcome of your refusal, and the reason why you refused to submit to such a test.

No

70. In the past ten years, have you suffered memory loss or impaired judgment for any reason? If so, please explain in full.

No

SUPPLEMENTAL INFORMATION

71. Describe any additional education or experiences you have which could assist you in holding judicial office.

I have always been a highly efficient, time-oriented person, which has been essential in my role as a prosecutor. I have helped streamline the filing decision process, ensuring that cases are reviewed and charged in a timely and consistent manner. For years, I effectively handled the workload of two attorneys, managing a high volume of cases while maintaining attention to detail and fairness in every decision.

This ability to manage heavy caseloads and improve efficiency would translate seamlessly to the bench. As a judge, I would bring the same level of organization, discipline, and focus to docket management, ensuring that cases are handled promptly and fairly while keeping the courtroom running smoothly. My experience juggling complex and high-volume caseloads has prepared me to handle judicial responsibilities efficiently without sacrificing the quality of justice delivered.

Education:

- Selected to attend and completed the Digital Evidence for Prosecutors course at the National Computer Forensics Institute hosted by United State Secret Service, Department of Homeland Security, and the Alabama District Attorney's Association in Birmingham, Alabama.
- Discovery, Brady, & Giglio, Florida Prosecuting Attorneys Association
- LegalFuel Speaker Series: Tens Way to Avoid Bar Discipline

- Summer Education Training Program for Prosecutors, Florida Prosecuting Attorneys Association
- Ethics of Discovery, Florida Prosecuting Attorneys Association
- Fall Education Training Program for Prosecutors, Florida Prosecuting Attorneys Association
- Domestic Violence Trial Issues, Florida Prosecuting Attorneys Association
- Domestic Violence Basic, Florida Prosecuting Attorneys Association
- Learning to Thrive as a Tech-Savy Lawyer
- The Laws of Robots – Regulating Tomorrow’s Machines
- Care to Improve the Conversation
- Delivering an Effortless Experience to Your Client
- Rule 3.220 & Brady-Giglio Obligations, Florida Prosecuting Attorneys Association
- FRCrP 3.220 (Discovery)
- Initial Appearances, Florida Prosecuting Attorneys Association
- Advanced DUI Seminar, Florida Prosecuting Attorneys Association
- Evidentiary Issues in Domestic Violence Cases, Florida Prosecuting Attorneys Association

72. Explain the particular contribution you believe your selection would bring to this position and provide any additional information you feel would be helpful to the Commission and Governor in evaluating your application.

I believe my background gives me a unique perspective that would serve me well as a judge. A quote that would define my life is, “Hard times don’t change the rules – they test how committed you are to them”.

I grew up in a working-class household, where living paycheck to paycheck was a reality. I have seen firsthand how difficult circumstances can lead people down the wrong path, and I have watched family members struggle with substance abuse and the legal troubles that often follow. These experiences have given me a deep understanding of the challenges that bring people into the courtroom, not just as defendants, but also as victims and families seeking justice.

I believe that perseverance in the face of adversity defines a person’s character. With my upbringing I could have easily become another statistic; however, I knew I wanted a better life, and have worked tirelessly to achieve my goals.

During my first year of law school, I became unexpectedly pregnant. Many people assumed I would delay my education or abandon my dream of becoming a lawyer. But I refused to let circumstances dictate my future. I gave birth to my son, brought him home on a Friday, and was back in class on Monday determined to keep moving forward. There were many times that I would be feeding my baby and highlighting case briefs for my classes the following day. My experience reinforced what I had always known: success isn’t about having a perfect path; it’s about pushing forward no matter how difficult the journey becomes.

My mother once said to me, “people can take a lot of things from you, but they can never take your education.” I took that to heart, understanding that knowledge and discipline are the foundations of

true independence. No matter the challenges I faced growing up - paycheck to paycheck, watching loved ones struggle with addiction, or becoming an unexpected mother during law school - I knew that my success depended on my commitment to learning and staying true to the path I set for myself.

The law is not something that should shift based on emotion, personal opinion, or circumstance. The words of the law are what ground our system, providing stability, predictability, and fairness. Just as I never let obstacles deter me from my education, I believe a judge should never let outside pressures alter how the law is applied. It must be read and followed as written - clear, steady, and unwavering - because justice depends on consistency, not interpretation based on personal feelings or desired outcomes.

I know that the role of a judge is not to fix the circumstances that lead people into the legal system, but to apply the law as it is written, fairly and consistently. People need to know that when they step into a courtroom, the law will be applied evenly, without bias or favor, whether they come from wealth or struggle to make ends meet, whether they have made mistakes in the past or are seeking justice for harm done to them.

If given the opportunity to serve as a judge, I would bring both a firm commitment to upholding the law as written and a real-world understanding of the impact the legal system has on the lives of everyday people.

During my legal career I have built a strong reputation for fairness, integrity, and respect in the courtroom. My background in criminal prosecution, victim advocacy, and community engagement has provided me with the legal acumen, temperament, and dedication necessary to serve as a fair, effective, and compassionate judge. Beyond my work in the courtroom, I have dedicated myself to improving the legal community, mentoring new attorneys, and collaborating with law enforcement and advocacy groups to enhance the justice system.

In my role as a prosecutor, I have worked closely with local law enforcement agencies, ensuring that cases are properly investigated and prosecuted to keep our community safe. I routinely train and collaborate with officers, discussing best practices, legal updates, and trial strategies to strengthen cases and ensure justice is served. Additionally, I have taken the initiative to create a Domestic Violence Trial Notebook, compiling case law, trial strategies, predicates, and motions to assist fellow prosecutors in effectively handling complex domestic violence cases. This was not a required part of my job - I took on this project because I believe that sharing knowledge strengthens the legal system as a whole.

Beyond my prosecutorial work, I have been actively involved in SFAWL (the Seminole County chapter of the Florida Association for Women Lawyers), where I have served in multiple leadership roles. I have worked to engage and support new attorneys, ensuring they have the resources, mentorship, and professional connections they need to succeed. I have helped develop useful content and programming for attorneys, focusing on both professional development and substantive legal education. Additionally, I have networked with other circuits and legal professionals across Florida

and beyond, exchanging ideas and best practices to enhance our legal community and ensure consistency in the practice of law.

Through all of these efforts whether prosecuting cases, advocating for victims, mentoring attorneys, or working with law enforcement I have remained committed to fairness, efficiency, and the rule of law. These experiences have prepared me to serve as a judge who is not only knowledgeable and well-prepared but also committed to strengthening the legal system for both the professionals who work within it and the community it serves.

The Judicial Nominating Commission and the Governor can be confident that I am fully prepared to uphold the law, serve the people of Volusia County, and administer justice with integrity.

REFERENCES

73. List the names, addresses, e-mail addresses and telephone numbers of ten persons who are in a position to comment on your qualifications for a judicial position and of whom inquiry may be made by the Commission and the Governor.

State Attorney William Scheiner
2725 Judge Fran Jamieson Way, Building D
Viera, FL 32940
Email: wscheiner@sa18.org
Phone: 321-617-7510

Honorable Melanie Chase
Seminole Criminal Justice Courthouse
101 Eslinger Way
Sanford, FL 32772
Email: melanie.chase@flcourts18.org
Phone: 407-665-4996

Honorable Christopher Sprysenski
Seminole Civil Courthouse
301 N. Park Ave.
Sanford, FL 32771
Email: Christopher.Sprysenski@flcourts18.org
Phone: 407-665-4245

Honorable Jigisa Dookhoo
Moore Justice Center
2825 Judge Fran Jamieson Way
Email: jigisa.dookhoo@flcourts18.org
Phone: 321-617-7281

Honorable Melissa Souto
Seminole Criminal Justice Courthouse
101 Eslinger Way
Sanford, FL 32772
Email: melissa.souto@flcourts18.org
Phone: 407-665-4926

David Webster, Esq.
Defense Attorney
1220 Commerce Park Drive, Suite 207
Longwood, FL 32779
Email: dwebsterlaw@gmail.com
Phone: 407-733-6968

Matthews Bark, Esq.
Defense Attorney
999 Douglas Ave., Suite 3317
Altamonte Springs, FL 32714
Email: matt@barklaw.com
Phone: 407-865-8888

Samantha Lambart
Defense Attorney
1220 Commerce Park Drive, Suite 207
Longwood, FL 32779
Email: samantha@thewebsterlawoffice.com
Phone: 407-733-6968

Lymary Munoz, Esq.
Assistant State Attorney
101 Eslinger Way
Sanford, FL 32772
Email: lmunoz@sa18.org
Phone Number: 407-665-6101

Laura Moore
Assistant Public Defender
91 Eslinger Way
Sanford, FL 32772
Phone: 407-665-4524

CERTIFICATE

I have read the foregoing questions carefully and have answered them truthfully, fully and completely. I hereby waive notice by and authorize The Florida Bar or any of its committees, educational and other institutions, the Judicial Qualifications Commission, the Florida Board of Bar Examiners or any judicial or professional disciplinary or supervisory body or commission, any references furnished by me, employers, business and professional associates, all governmental agencies and instrumentalities and all consumer and credit reporting agencies to release to the respective Judicial Nominating Commission and Office of the Governor any information, files, records or credit reports requested by the commission in connection with any consideration of me as possible nominee for appointment to judicial office. Information relating to any Florida Bar disciplinary proceedings is to be made available in accordance with Rule 3-7.1(l), Rules Regulating The Florida Bar. I recognize and agree that, pursuant to the Florida Constitution and the Uniform Rules of this commission, the contents of this questionnaire and other information received from or concerning me, and all interviews and proceedings of the commission, except for deliberations by the commission, shall be open to the public.

Further, I stipulate I have read and understand the requirements of the Florida Code of Judicial Conduct.

Dated this 10 day of February, 2025.

Amy Moore
Printed Name

Amy Moore
Signature

(Pursuant to Section 119.071(4)(d)(1), F.S.), . . . The home addresses and telephone numbers of justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the home addresses, telephone numbers, and places of employment of the spouses and children of justices and judges; and the names and locations of schools and day care facilities attended by the children of justices and judges are exempt from the provisions of subsection (1), dealing with public records.

FINANCIAL HISTORY

1. State the amount of gross income you have earned, or losses you have incurred (before deducting expenses and taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

Current Year-To-Date: \$8,401.68

Last Three Years: \$94,910.07 (2024) \$82,562.48 (2023) \$67,629.12 (2022)

2. State the amount of net income you have earned, or losses you have incurred (after deducting expenses but not taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

Current Year-To-Date: \$6,333.98

Last Three Years: \$70,706.15 (2024) \$62,944.30 (2023) \$52,272.55 (2022)

3. State the gross amount of income or losses incurred (before deducting expenses or taxes) you have earned in the preceding three years on a year by year basis from all sources other than the practice of law, and generally describe the source of such income or losses.

Current Year-To-Date: n/a

Last Three Years: n/a n/a n/a

4. State the amount you have earned in the preceding three years on a year by year basis from all sources other than the practice of law, and generally describe the source of such income or losses.

Current Year-To-Date: n/a

Last Three Years: n/a n/a n/a

5. State the amount of net income you have earned or losses incurred (after deducting expenses) from all sources other than the practice of law for the preceding three-year period on a year by year basis, and generally describe the sources of such income or losses.

Current Year-To-Date: n/a

Last Three Years: n/a n/a n/a

**FORM 6
FULL AND PUBLIC
DISCLOSURE OF
FINANCIAL INTEREST**

PART A – NET WORTH

Please enter the value of your net worth as of December 31 or a more current date. [Note: Net worth is not calculated by subtracting your *reported* liabilities from your *reported* assets, so please see the instructions on page 3.]

My net worth as of February 9, 2025 was \$ -109,752.

PART B - ASSETS

HOUSEHOLD GOODS AND PERSONAL EFFECTS:

Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000. This category includes any of the following, if not held for investment purposes; jewelry; collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use.

The aggregate value of my household goods and personal effects (described above) is \$ _____

ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:

DESCRIPTION OF ASSET (specific description is required – see instructions p. 3)

VALUE OF ASSET

Real Estate, [REDACTED] – Equity	\$124,000.00
Real Estate. Volusia County Property Id: [REDACTED]	\$30,000.00
Pottery Equipment	\$5,000.00
Savings Account (Bank of America)	\$1,200

PART C - LIABILITIES

LIABILITIES IN EXCESS OF \$1,000 (See instructions on page 4):

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

53 Bank Mortgage, 5050 Kingsley Drive, MD 1MOCFP, Cincinnati, OH 45263	\$226,952.82
Bank of America, P.O. Box 25118, Tampa, FL 33622	\$20,399.22

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

n/a	

PART D - INCOME

You may **EITHER** (1) file a complete copy of your latest federal income tax return, *including all W2's, schedules, and attachments*, **OR** (2) file a sworn statement identifying each separate source and amount of income which exceeds \$1,000 including secondary sources of income, by completing the remainder of Part D, below.

I elect to file a copy of my latest federal income tax return and all W2's, schedules, and attachments.
 (if you check this box and attach a copy of your latest tax return, you need not complete the remainder of Part D.)

PRIMARY SOURCE OF INCOME (See instructions on page 5):

NAME OF SOURCE OF INCOME EXCEEDING \$1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT
State Attorney's Office – 18 th Judicial Circuit	200 E. Gaines Street, Tallahassee, FL 32301	\$89,233

SECONDARY SOURCES OF INCOME [Major customers, clients, etc., of businesses owned by reporting person—see instructions on page 6]

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE
n/a	n/a	n/a	n/a
n/a	n/a	n/a	n/a
n/a	n/a	n/a	n/a

PART E – INTERESTS IN SPECIFIC BUSINESS [Instructions on page 7]

	BUSINESS ENTITY #1	BUSINESS ENTITY #2	BUSINESS ENTITY #3
NAME OF BUSINESS ENTITY	n/a	n/a	n/a
ADDRESS OF BUSINESS ENTITY	n/a	n/a	n/a
PRINCIPAL BUSINESS ACTIVITY	n/a	n/a	n/a
POSITION HELD WITH ENTITY	n/a	n/a	n/a
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS	n/a	n/a	n/a
NATURE OF MY OWNERSHIP INTEREST	n/a	n/a	n/a

IF ANY OF PARTS A THROUGH E ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE

OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.

Amy Moore
SIGNATURE

STATE OF FLORIDA

COUNTY OF *Seminole*

Sworn to (or affirmed) and subscribed before me this *10th* day of *February* *25* by _____

Cindi Moten

(Signature of Notary Public—State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)



Personally Known _____

Type of Identification Produced _____

JUDICIAL APPLICATION DATA RECORD

The judicial application shall include a separate page asking applicants to identify their race, ethnicity and gender. Completion of this page shall be optional, and the page shall include an explanation that the information is requested for data collection purposes in order to assess and promote diversity in the judiciary. The chair of the Commission shall forward all such completed pages, along with the names of the nominees to the JNC Coordinator in the Governor's Office (pursuant to JNC Uniform Rule of Procedure).

(Please Type or Print)

Date: 2/10/25

JNC Submitting To: 7th

Name (please print): Amy Moore
Current Occupation: Assistant State Attorney
Telephone Number: [REDACTED] Attorney No.: 95674

Gender (check one): Male Female

Ethnic Origin (check one): White, non-Hispanic
 Hispanic
 Black
 American Indian/Alaskan Native
 Asian/Pacific Islander

County of Residence: Volusia

FLORIDA DEPARTMENT OF LAW ENFORCEMENT

DISCLOSURE PURSUANT TO THE
FAIR CREDIT REPORTING ACT (FCRA)

The Florida Department of Law Enforcement (FDLE) may obtain one or more consumer reports, including but not limited to credit reports, about you, for employment purposes as defined by the Fair Credit Reporting Act, including for determinations related to initial employment, reassignment, promotion, or other employment-related actions.

CONSUMER'S AUTHORIZATION FOR
FDLE TO OBTAIN CONSUMER REPORT(S)

I have read and understand the above Disclosure. I authorize the Florida Department of Law Enforcement (FDLE) to obtain one or more consumer reports on me, for employment purposes, as described in the above Disclosure.

Amy Moore
Printed Name of Applicant

Amy Moore
Signature of Applicant

Date: 2/10/25

ATTACHMENT A
Response to Question 22

IN THE CIRCUIT COURT
FOR THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA

APPELLATE CASE NO. 12-79-AP

JASON YOUNG,
Appellant

v.

STATE OF FLORIDA,
Appellee

FILED IN OFFICE
MARILYN MORSE
CLERK CIRCUIT COURT
13 AUG - 9 PM 3: 54
BY SEMINOLE CO. FL. D.C.

13

A DIRECT APPEAL OF A JUDGMENT IN A CRIMINAL PROCEEDING
FROM THE COUNTY COURT, EIGHTEENTH JUDICIAL CIRCUIT IN
AND FOR SEMINOLE COUNTY, FLORIDA
CASE NO. 12-2075-MMA

ANSWER BRIEF FOR THE APPELLEE

PHIL ARCHER
STATE ATTORNEY

BY: Amy Moore
AMY L. MOORE
ASSISTANT STATE ATTORNEY
FLORIDA BAR NO.: 95674
101 BUSH BLVD.
SANFORD, FL. 32772
(407) 665-6000
ATTORNEY FOR APPELLEE

TABLE OF CONTENTS

	<u>PAGE</u>
TABLE OF AUTHORITIES.....	3
PRELIMINARY STATEMENT.....	4
STATEMENT OF THE CASE	5
A. Course of Proceedings and Disposition in the Court Below.....	5
B. Statement of the Facts.....	5
STANDARD OF REVIEW.....	10
ARGUMENT.....	10
 <u>THERE WAS NO PROSECUTORIAL MISCONDUCT DURING THE APPELLANT'S JURY TRIAL; HOWEVER, EVEN IF THERE WAS, IT DID NOT AMOUNT TO FUNDAMENTAL ERROR THEREBY REQUIRING A NEW TRIAL</u>	
I. The prosecutor did not elicit testimony about evidence previously excluded by the trial court and about criminals in general.	
II. Closing Arguments did not include statements which bolstered witnesses and did not include statements which shifted the burden of proof to the Defendant.	
III. Any alleged misconduct by the State did not rise to the level of fundamental error.	
CONCLUSION.....	18
CERTIFICATE OF SERVICE.....	20

TABLE OF AUTHORITIES

Cases

D'Ambrosio v. State, 736 So.2d 44 (Fla. 5th DCA 1999).....10, 16

James v. State, 695 So.2d 1229 (Fla. 1997).....11

Spencer v. State, 645 So.2d 377 (Fla. 1994).....12

Johnson v. State, 801 So.2d 141 (Fla. 4th DCA 2001).....12, 13

United States v. Hernandez, 921 F.2d 1569 (11 Cir. 1991).....12

Smith v. State, 818 So.2d 707 (Fla. 5th DCA 2002)..... 13

Reyes v. State, 700 So.2d 458 (Fla. 4th DCA 1997)..... 13

Williams v. State, 747 So.2d 474 (Fla. 5th DCA 1999).....13

U.S. v. Young, 470 U.S. 1 (1985).....14

Morris v. State, 988 So.2d 120 (Fla. 5th DCA 2008)..... 15

Servis v. State, 855 So.2d 1190 (Fla. 5th DCA 2003).....15, 17

Silva v. Nightingale, 619 So.2d 4 (Fla. 5th DCA 1993)..... 16, 18

Ruiz v. State, 743 So.2d 1 (Fla. 1999).....16

Statutes

Fla. Stat. 316.193 (1).....5

Fla. Stat. 316.193 (3)(a)(b)(c)1 5

Other Authorities

Fla. Std. Jury Instr. (Crim) 3.9 12

PRELIMINARY STATEMENT

The Appellant in this Appeal is Jason Young, hereinafter referred to as the “Defendant.” The State of Florida by the Office of the State Attorney, Eighteenth Judicial Circuit of Florida is the Appellee and hereinafter referred to as the “State.” The Defendant was charged with Driving Under the Influence and Causing Damage or Injury.

The record will be cited referring to “R (page number)” in this brief for all instruments filed with the court. The transcript of the jury trial will be cited referring to “T (page number)”.

STATEMENT OF THE CASE

A. Course of Proceedings and Disposition in the Court Below

On March 16, 2012, the Defendant was charged by information with the offense of Driving Under the Influence and Causing Damage or Injury, in violation of § 316.193(1), 316.193(3)(a)(b)(c)1 of the Florida Statutes (2013). R. 12.

On November 5, 2012 a jury panel was chosen. R. 41. A trial by jury commenced on November 6, 2012. R. 42. On November 6, 2012, the Defendant was found guilty of Driving Under the Influence and Causing Damage or Injury by the jury. R. 48. The Defendant was sentenced the same day, R. 48. On November 8, 2012, the Defendant filed his Motion for New Trial. R. 72. On December 4, 2012 the Defendant filed his Notice of Appeal. R. 79.

B. Statement of the Facts

On March 16, 2012, the Defendant was charged by information with the offense of Driving Under the Influence and Causing Damage or Injury, in violation of § 316.193(1), 316.193(3)(a)(b)(c)1 of the Florida Statutes (2013). R. 12.

On May 4, 2012 a Motion in Limine was heard by the Court. As reflected in the Court Minutes “The Court granted the Defense motion to exclude the *unopened container in the bed of the truck* and *denied the motion to exclude the open container in the cab of the truck*” (emphasis added). R. 22.

On November 5, 2012 a jury panel was chosen. R. 41. A trial by jury commenced on November 6, 2012. R. 42. The State presented substantial

evidence, including but not limited to, testimony from John Scarborough, Farzaneh Avaz Pour, Officer Patricia Williams, and Breath Technician Stephanie Berrios. T. 2.

John Scarborough was able to identify the Defendant as the driver of the vehicle. T. 35. Through his testimony it was elicited that the Defendant did not attempt to stop in any way and there was no screeching of the Defendant's tires prior to the impact of his vehicle with Ms. Pour's vehicle. T. 38. Mr. Scarborough testified as to the signs of impairment that he observed: slurred words, mumbling his words, had a hard time talking, and smelled like alcohol, sluggish movements. T. 39-40. Mr. Scarborough testified that he believed the Defendant was impaired. T. 40. In response to Defense Counsel asking, "Now, you said that he was drinking, but you don't know if he was drunk, though, do you? You're not certain?", Mr Scarborough made the following response:

Okay. I felt fairly certain afterwards because even when his son came up behind the truck and pulled up behind him and I said, man, that guy is drunker than a skunk, and his son who walked up he says, yes, that's my dad...

Farzaneh Pour testified as to seeing the car coming at her very fast. T. 52. Ms. Pour was able to describe the damage to her car as being approximately \$7,000.00. T. 53. The injuries Ms. Pour sustained were neck problems and back pain. Ms. Pour explained that she was taken by ambulance to the hospital that night. T. 58.

Trooper Patricia Williams testified that she had been a trooper for 23 years.

T. 60. Trooper Williams testified as to her extensive knowledge and training in DUI investigations. T. 61. Trooper Williams testified that she does not arrest everyone she suspects of DUI, and explained the reason why, "Because just because I have an indication from someone that they are possibly under the influence of something, your further investigation helps you make a decision in that area". Additionally, Trooper Williams stated, "...Everyone that seemed to be under the influence may not necessarily be under the influence of a controlled substance." T. 61-62. Trooper Williams testified as to the following signs of impairment: extremely strong odor of alcohol and was swaying/unsteady in his stance. T. 66. She testified as to finding an open bottle of vodka and an empty bottle of vodka in the driver's compartment. T. 67. Trooper Williams requested the Defendant perform field sobriety exercises, and the Defendant refused. T. 68. Furthermore, Trooper Williams explained some of the statements the Defendant made:

Even when I was in the process asking him to perform field sobriety exercises for me, he continually told me that he knew he was under the influence and he kept insisting I arrest him. He kept turning around saying go ahead and arrest me, go ahead and arrest me. T. 68.

Trooper Williams testified based on her experience being under the influence of a controlled substance has caused people to fall asleep. T. 72. During

the cross examination, at the questioning of Defense Counsel, Trooper Williams testified to Defendant's statement, "*[The Defendant] kept saying, I know I've been drinking, I'm drunk, go ahead and arrest me*".

Breath Technician Stephanie Berrios testified to being a breath technician for the Seminole County Sheriff's Office for 15 years and has observed approximately 5,000 DUI arrests. T. 114. She further testified as to the training that she has completed in regards to DUI and detecting signs of impairment. T. 114. Ms. Berrios described for the Court the signs of impairment that she observed: very, very strong odor of alcohol, dry lips, thick speech, dry mouth, bloodshot eyes, and a bad attitude. T. 17-18. During Defense Counsel's closing argument he argued the following:

Now, Let's talk about the Trooper. I'm sure she is a great lady, too; however, you listen to her, she wanted a conviction on this crime, okay. Ladies and Gentlemen, she wants the ends to justify the means. T. 189.

Police may lie, witnesses may not remember things or may not be as truthful as you think they might need to be... T. 190.

There's all this discussion that Mr. Young said, I'm drunk, arrest me. That was not on the video. On the video he was saying everything but. How convenient. T. 192.

I submit to you, the trooper who has had twenty-three years of experience... T. 194.

That Wendy's commercial, ladies and gentlemen, where is the beef. State's got no beef. Might have buns and

lettuce, but that's it. Where is the evidence in this case.
T. 195

As far as weighing the evidence that the judge is going to read to you, he'll read you, was the witness honest and straight forward in answering the attorneys' questions. But you'll have to make that decision, ladies and gentlemen. T. 196

And did the witness have some interest in how the case should be decided. This is their profession, this is their jobs and I presume this is the love of their lives. But, again, do the ends justify the means. T. 196.

In the State's rebuttal closing statement, the following statements were made:

In this case you have the Defendant putting his hand behind his back saying, I'm drunk, take me to jail. I'm drunk, take me to jail. Granted, it's not on video. I would love to show you video. You heard Officer Williams say we had no cameras. I didn't know you had to push the button twice to get the audio to come on. It's unfortunate. It is. I'd love to show you video of that. But she took the stand today and said this happened. She has no reason to lie. T. 203.

Defense Counsel has said she [Trooper Williams] wanted a guilty. She doesn't get a promotion if she gets guilty on DUIs. She has no vest interest in this case. She did her job, she came to court today to relay what she saw that night... T. 203

Defense Counsel said where is the beef. Where is the evidence. The beef, the evidence, depending on how you want to use the phrase, we would have been able to show you field sobriety exercises, he refused those twice. We would have been able to show you a breath test, he refused that once...*An unspecified objection was made by*

Defense Counsel and was overruled as was his motion to strike... I submit to you that the refusals to perform field sobriety exercises twice and the refusal to give a breath test is consciousness of the Defendant's guilt. T. 206-T. 208.

STANDARD OF REVIEW

The standard of review is under the Fundamental Error standard.

D'Ambrosio v. State, 736 So.2d 44 (Fla. 5th DCA 1999).

ARGUMENT

There was no prosecutorial misconduct during this trial. However, even if this honorable Court finds that the prosecution committed some misconduct then that misconduct does not rise to the level required to constitute a fundamental error.

I. THE PROSECUTOR DID NOT ELICIT TESTIMONY ABOUT EVIDENCE PREVIOUSLY EXCLUDED BY THE TRIAL COURT AND ABOUT CRIMINALS IN GENERAL.

On May 4, 2012 a Motion in Limine was heard by the Court. The Court granted the Defense motion to exclude the *unopened container in the bed of the truck* and *denied the motion to exclude the open container in the cab of the truck*" (emphasis added). Any evidence of alcoholic containers found outside the cab of the truck or in the bed of the truck was excluded by the Trial Court as being

unfairly prejudicial. However, the alcoholic containers found inside the cab/driver's compartment were not excluded. During trial the prosecution was cognizant of the limitations placed by the Trial Court and directed the witness, Trooper Williams, to testify as to what she found *inside the Defendant's vehicle*. No testimony was ever elicited that indicated or implied that there were any other bottles of liquor found. Therefore, no pre-trial ruling had been violated by the State.

In regards to testimony regarding criminals in general, this issue has not been properly preserved for appeal. The State elicited testimony from Trooper Williams regarding DUI arrests, and why people would fall asleep in the back of a patrol car. Trooper Williams testified that based on her experience it was due the suspect being in a relaxed state. The State inquired, "So in the case of the DUI, based on your prior experience, what does it indicate to you when someone falls asleep in the back of your patrol car when they've been arrested for DUI?" Defense Counsel made a specific objection of speculation, and the Judge sustained the objection. However, Defense counsel never requested a curative instruction, and did not move for a mistrial. As explained in *James v. State*, 695 So.2d 1229 (Fla. 1997):

As a preliminary matter, we reject the State's argument that this claim is procedurally barred because James failed to make a timely objection or request a curative instruction. We find that this claim of error has been

adequately preserved for appellate review. As we explained in *Spencer v. State*, 645 So.2d 377 (Fla.1994), defense counsel may conclude upon objection that a curative instruction will not cure the error and choose not to request one: "Thus, a defendant need not request a curative instruction in order to preserve an improper comment issue for appeal. The issue is preserved if the defendant makes a timely specific objection and moves for a mistrial."

Therefore, for the above-stated reasons this issue has not been preserved for appeal.

II. CLOSING ARGUMENTS DID NOT INCLUDE STATEMENTS WHICH BOLSTERED WITNESSES AND DID NOT INCLUDE STATEMENTS WHICH SHIFTED THE BURDEN OF PROOF TO THE DEFENDANT.

The State went through Standard Jury Instruction 3.9 Weighing the Evidence - regarding witness credibility. Thereafter, the State went through each witness who had testified in this case, and explained why based on the standards set forth in that instruction that the witnesses were credible. The State at no time vouched for their credibility, but instead used the testimony presented at trial to explain why they should be deemed credible in the juror's minds. In *Johnson v. State*, 801 So.2d 141 (Fla. 4th DCA 2001), the Court explained, "In this case, the prosecutor neither stated his personal opinion, nor suggested the officer's opinion was more believable than that of another simply because he was a police officer. In *United States v. Hernandez*, 921 F.2d 1569 (11th Cir.1991), the court observed, '[t]he prohibition against vouching does not forbid prosecutors from arguing credibility,

which may be central to the case; rather, it forbids arguing credibility based on the reputation of the government officer or on evidence not before the jury.”.

In *Smith v. State*, 818 So.2d 707 (Fla. 5th DCA 2002), the court succinctly explains how the prosecution is permitted to discuss the credibility of witness, specifically police officers:

The comments in this case are directed at having the jury evaluate what motive a police officer would have to deceive them in a case which hinges on the witness' credibility. We agree the trial court was correct in overruling the objection. Comments by the prosecutor asking the jurors to evaluate what motive a police officer would have to deceive them is not improper when made in connection with evaluating a witness' credibility. *Johnson; Reyes*. For example, in *Johnson*, the prosecutor told the jurors during closing arguments that “the best evidence is the testimony of the police officer who has absolutely no reason any one has shown you to lie to you” and “those officers have no reason to lie.” The court held that these comments did not amount to improper bolstering. The prosecutor neither stated his personal opinion nor suggested that the officer's opinion was more believable simply because he was a police officer.

In the instant case, the State never asked the jury to believe the testimony of Trooper Williams simply because she was a police officer. The State in response to Defense Counsel's comments explained why Trooper Williams had no bias. As explained in *Williams v. State*, 747 So.2d 474 (Fla. 5th DCA 1999), “A prosecutor may argue any reasons, if supported by the evidence, why a given witness might or might not be biased in a case, but the prosecutor may not properly argue that a

police officer must be believed simply because he is a police officer". The State put forth reasons why Trooper Williams was not biased or lacked credibility in this case.

Therefore, while it is the State's position that these comments were not improper or in error, if this Honorable Court finds that the comments were, then the State's position is that the comments were in response to Defense Counsel questioning the credibility and bias of Trooper Williams. Therefore, they were a fair reply to comments made by Defense Counsel. As explained in *U.S. v. Young*, 470 U.S. 1 (1985), "In order to make an appropriate assessment, the reviewing court must not only weigh the impact of the prosecutor's remarks, but must also take into account defense counsel's opening salvo. Thus the import of the evaluation has been that if the prosecutor's remarks were 'invited,' and did no more than respond substantially in order to 'right the scale' such comments would not warrant reversing a conviction." The Court in *Young* further explained that even if the comments made by the prosecutor were in error, when they had not been objected to at trial, the comments would have to be considered a plain error for the Court to be able to reverse and grant a new trial. The Court in *Young* found that while the prosecutor's comments were not proper, they did not give rise to plain error and had been a fair reply to Defense Counsel's closing arguments.

In response to the allegation of shifting the burden to the Defendant, the State never crossed the “consciousness of guilt” line. The State is permitted to argue to the jury that by the Defendant not performing a task (field sobriety or a breath test), that it is consciousness of the Defendant’s guilt. *Morris v. State*, 988 So.2d 120 (Fla. 5th DCA 2008). Ultimately, the *Morris* Court found that the State had exceeded the permitted inferences of consciousness of guilt. The State is *Morris* had stated to the jury “That [innocent] man is thinking, yes, get me to that, get me to that instrument, let me take that breath test, let me prove this officer wrong.” In the present case, the State never made any comment similar to what occurred in *Morris*. The State commented on the “Where’s the Beef” argument, by explaining that we had evidence of the Defendant’s consciousness of guilt. The State at no point indicated that the Defendant had to produce evidence of his innocence or that if he was innocent he would have taken the first opportunity to prove that innocence by way of doing field sobriety exercises or a breath test.

III. ANY ALLEGED MISCONDUCT BY THE STATE DID NOT RISE TO THE LEVEL OF FUNDAMENTAL ERROR.

The State did not commit prosecutorial misconduct. The State properly presented argument on the credibility of a witness based on evidence that had already been presented in the case. *Servis v. State*, 855 So.2d 1190 (Fla. 5th DCA 2003).

Even if the State committed prosecutorial misconduct it did not constitute fundamental error. The Defendant failed to make timely specific objections to the alleged misconduct and as a result the issues were not preserved for appellate review. When an objection has not been properly made, the standard of review is fundamental error. *D'Ambrosio v. State*, 736 So.2d 44 (Fla. 5th DCA 1999). "Fundamental error in closing arguments occurs when the prejudicial conduct in its collective import is so extensive that its influence pervades the trial, gravely impairing a calm and dispassionate consideration of the evidence and the merits by the jury." *Silva v. Nightingale*, 619 So.2d 4, 5 (Fla. 5th DCA 1993).

The alleged prejudicial misconduct in its collective import was not so extensive that its influence pervaded the trial. State properly explained why the witnesses should be deemed credible based on the standard jury instruction. Further, the State did not shift the burden of proof when explaining consciousness of guilt. Most importantly, there was no mention of the evidence which had been excluded by the Trial court.

Prosecutorial misconduct occurs when the prosecutor attempts to tilt the playing field and obtain a conviction. *Ruiz v. State*, 743 So.2d 1, 9 (Fla. 1999). Prosecutorial misconduct includes, but is not limited to: invoking the immense power, prestige, and resources of the State, demeaning or ridiculing the Defendant, characterizing the Defendant as the archetypical liar and the equating truth with

justice and justice with a conviction, by appealing to the juror's raw emotions, and by introducing improper evidence. *Id.* The State did none of these things.

In regards to comments made by the State in closing arguments, the Defendant relies primarily upon *Servis v. State*, 855 So.2d 1190 (Fla. 5th DCA 2003). The Defendant failed to point out at least five distinct and unique acts of prosecutorial misconduct found by the *Servis* court. The first instance of misconduct found by the found by the *Servis* court was the State's reference to evidence in closing argument that was never presented at trial, specifically the mental state of eye witnesses at the scene, to support additional grounds for finding the Defendant guilty. *Id.* at 1197. The second act of misconduct was the State's attempt to bolster the credibility of the Medical Examiner and law enforcement officers in the case. *Id.* The third act of misconduct was the State misstating the law to the jury during closing arguments. *Id.* at 1195. The fourth act of was the State's commenting on their personal opinion of the Defendant's guilt. *Id.* at 1196. Lastly, the court found misconduct in the State showing an autopsy photo to the jury that had never been entered into evidence. The court rightfully concluded in *Servis* that "Because of the cumulative effect of the State's numerous improper comments denied *Servis* a fair trial." *Id.* at 1197. In the instance case, the Defendant alleges that the state committed misconduct in 4 ways: commenting on evidence that was previously excluded, bolstering witness testimony, commenting

about testimony on criminals in general, and shifting the burden to the defense. The State never commented or elicited testimony regarding evidence that had previously been excluded. The State did not bolster witness credibility, instead the State made proper closing arguments as to why based on the testimony elicited at trial and the jury instructions the jurors were to receive that the witnesses should be deemed credible. The comments made by the State in closing argument were not improper and further were in response to statements made by Defense Counsel in his closing. Additionally, the testimony elicited regarding criminals in general, was specifically in regards to why a Defendant would fall asleep in the back of a patrol car after being arrested for DUI, and what falling asleep meant to Trooper Williams. Lastly, the State never shifted the burden to the Defendant. The State made a proper argument regarding conscience of guilt.

CONCLUSION

The State did not commit prosecutorial misconduct; however, even if any of the comments made by the State are deemed to be improper, it does not rise to the level of fundamental error, because any comments deemed improper are not so prejudicial in its collective import that its influence pervaded the trial in such a manner that it gravely impaired a calm and dispassionate consideration of the evidence on the merits by the jury as required in *Silva v. Nightingale*.


WHEREFORE, the State respectfully requests this Court to uphold the trial court's rulings, judgments, and sentence.

CERTIFICATE OF ELECTRONIC SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by ELECTRONIC DELIVERY TO CHRISTEN KELLER, at the following email address: KHILL@PD18.NET, Attorney for the Appellant, and a courtesy copy to the Honorable JOHN ROGER SMITH by courier delivery, on this 9th day of August 2013.

PHIL ARCHER
STATE ATTORNEY

BY:


AMY L. MOORE

Assistant State Attorney

Florida Bar No.: 95674

101 Bush Blvd.

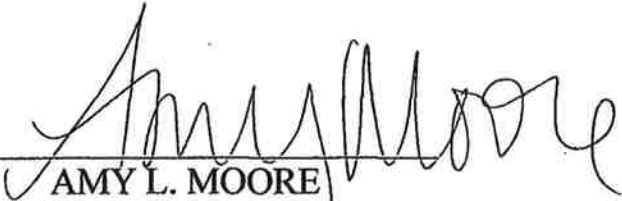
Sanford, FL. 32773

(407) 665-6000

SemCtyCourtAppeals@sa18.state.fl.us

**CERTIFICATION OF COMPLIANCE WITH
FORMATTING RULE**

I hereby certify that Appellee's Answer complies with the formatting requirements of Florida Rules of Appellate Procedure 9.210. Dated this 9th day of August, 2013.



AMY L. MOORE
Assistant State Attorney
Florida Bar No.: 95674
SemCtyCourtAppeals@sal8.state.fl.us

ATTACHMENT B
Response to Question 22

IN THE CIRCUIT COURT
FOR THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA

APPELLATE CASE NO. 12-72-AP

JERRY MIDDLETON,
Appellant

v.

STATE OF FLORIDA,
Appellee

FILED IN OFFICE
MARIYANNE MORSE
CLERK CIRCUIT COURT
13 MAY 28 PM 2: 57
BY SEMINOLE CO. FL
D.C.

A DIRECT APPEAL OF A JUDGMENT IN A CRIMINAL PROCEEDING
FROM THE COUNTY COURT, EIGHTEENTH JUDICIAL CIRCUIT IN
AND FOR SEMINOLE COUNTY, FLORIDA
CASE NO. 12-08626-MMA

ANSWER BRIEF FOR THE APPELLEE

PHIL ARCHER
STATE ATTORNEY

BY: Amy Moore

AMY L. MOORE
ASSISTANT STATE ATTORNEY
FLORIDA BAR NO.: 95674
101 BUSH BLVD.
SANFORD, FL. 32772
(407) 665-6000
ATTORNEY FOR APPELLEE

TABLE OF CONTENTS

	<u>PAGE</u>
TABLE OF AUTHORITIES.....	3
PRELIMINARY STATEMENT.....	4
STATEMENT OF THE CASE	5
A. Course of Proceedings and Disposition in the Court Below.....	5
B. Statement of the Facts.....	5
STANDARD OF REVIEW.....	10
ARGUMENT.....	10
 <u>THE APPEAL BY DEFENSE COUNSEL HAS BEEN SUBMITTED BY AN ATTORNEY WHICH IS NOT OF RECORD AND THE APPEAL SHOULD BE STRICKEN</u>	
I. The Public Defender's Office was not appointed for purposes of appeal.	
 <u>THE TRIAL COURT DID NOT ERR WHEN IT DENIED THE DEFENSE'S MOTION FOR A JUDGMENT OF ACQUITTAL</u>	
I. The Trial Court did not err when interpreting the language of the Standard Jury Instructions in Criminal Cases (28-9), Driving without a Valid License and correctly denied the Defense's motion for Judgment of Acquittal.	
II. The Trial Court did not err when it denied Defense's motion for Judgment of Acquittal, because driving to his girlfriend's house is a violation of a restricted "employment purposes only" license.	
CONCLUSION.....	19
CERTIFICATE OF SERVICE.....	21

TABLE OF AUTHORITIES

Cases

Davis v. State, 922 So.2d 438 (Fla. 5th DCA 2006)..... 11

Sheppard v. State, 659 So.2d 457 (Fla. 5th DCA 1995)..... 14

Petion v. State, 48 So.3d 726 (Fla. 2010).....14

Spataro v. State, 179 So.2d 873 (Fla. 2nd DCA 1965)..... 14

Crain v. State, 79 So.3d 118 (Fla. 1st DCA 2012).....14

State v. Bletcher, 763 So.2d 1977 (Fla. 5th DCA 2000)..... 15

State v. Quiroli, 9 Fla. L. Weekly Supp. 780b (Fla. Palm Beach County Ct. Sept. 12, 2002).....18

Allart v. State, 9 Fla. L. Weekly Supp. 499 (Fla. 6th Cir. Ct. June 27, 2001).....18

Dicks v. State, 15 Fla. L. Weekly Supp. 791b (Broward County, May 17, 2008).....19

Statutes

Fla. Stat. 322.16 (2013)..... 6

Fla. Stat. 322.03 (1) (2013)..... 11

Fla. Stat. 322.271 (2011)..... 15, 16, 17

Other Authorities

Fla. Std. Jury Instr. (Crim) 28.9 8, 10, 13

PRELIMINARY STATEMENT

The Appellant in this Appeal is Jerry Middleton, hereinafter referred to as the “Defendant.” The State of Florida by the Office of the State Attorney, Eighteenth Judicial Circuit of Florida is the Appellee and hereinafter referred to as the “State.” The Defendant was originally charged with Violation of Driver’s License Restriction, hereinafter referred to as “VDLR”. The Defendant was charged by amended Information with Driving Motor Vehicle without License, hereinafter referred to as “NVDL”.

The record will be cited referring to “R (page number)” in this brief for all instruments filed with the court. The transcript of the jury trial will be cited referring to “T (page number)”.

STATEMENT OF THE CASE

A. Course of Proceedings and Disposition in the Court Below

On August 29, 2012, the Defendant was charged by information with the offense of VDLR, in violation of § 322.16 of the Florida Statutes (2013).

R. 4. The State amended the Information on October 29, 2012 to NVDL. R. 11.

On October 31, 2012 a non-jury trial commenced. R. 12. On October 31, 2012, the Defendant was found guilty of NVDL by the Court. R. 12. The Defendant was subsequently sentenced on October 31, 2012. R. 12-14. On November 9, 2012, the Defendant filed his Motion for Judgment of Acquittal on November 9, 2012. R. 17-20. On November 16, 2012 the Defendant file his Notice of Appeal. R. 21-22.

B. Statement of the Facts

On August 29, 2012, the Defendant was charged by information with the offense of VDLR, in violation of § 322.16 of the Florida Statutes (2013). R. 4. The State amended the Information on October 29, 2012 to NVDL. It was alleged by the State that the Defendant was driving on August 22, 2012 when he did not have a valid driver's license, due to his Failure to Submit to a Breath/Urine/Blood Test which occurred in Lake County on August 10, 2012. R. 11. R. 16.

On October 31, a non-jury trial commenced on both charges. R. 12-14. The State presented substantial evidence, including but not limited to, testimony from Officer Timothy Knoeller. T. 3. Officer Knoeller testified that while he was on duty on August 22, 2012, a red Cadillac passed him. T. 4. Officer Knoeller testified that the red Cadillac caught his attention because it was traveling at a high rate of speed, and that upon following the vehicle he observed that the tag light was out. Based upon Officer Knoeller's testimony, the State moved the Defendant's Certified Driving Record into evidence as State's Exhibit One. R. 16. Furthermore, Officer Knoeller testified that the Defendant admitted that he was driving from a friend's house, that he was hanging out there, and that he was on his way to Checkers to get something to eat. T. 8.

On Cross Examination, Officer Knoeller testified that his inquiry regarding the Defendant's driving record did show a valid Business Purposes Only license. T. 8. However, pursuant to the certified driving record, the Defendant had an employment purposes only license. R. 16.

On Re-Direct Examination, Officer Knoeller testified that when he asked the Defendant whether going to his friend's house or driving to Checkers was business related, the Defendant told him that it was not. T. 9-10. The State rested their case at this time. T. 10.

Defense Counsel moved for a Judgment of Acquittal. T. 10. Defense Counsel argued that a Business Purposes Only permit is a valid license, and that any one with a Business Purposes Only permit is violating the NVDL statute under the State's theory. T. 11. The Court inquired as to when the provision states "valid", wouldn't that imply that it is valid for the purposes for which the Defendant is using it for. T. 11-12. The State's argument was that for the purposes for which the Defendant was driving for that night, he did not have a valid License. T. 14. At this point, the Court stated:

Okay. I do. [have a corrective lens restriction] "Restriction A". Under your theory, if I'm caught driving without my eyeglasses an officer could charge me with driving without a valid license instead of charging me with violation of a restriction license by not wearing corrective lens. T. 15.

At this point, the State explained that under the Court's analogy, he would be guilty of VDLR, but not of NVDL, since he had a valid underlying Driver's License. Furthermore, the State explained that the Defendant in this case did not have a valid underlying license. The Defendant's license was suspended and he only had an exemption from the suspension to be driving for employment purposes. T. 15. Defense counsel argued that based on Fla. Std. Jury Instr. (Crim.) 28.9 the Defendant had a valid license. The

Court disagreed and pointed out the definition of "Valid License" in that jury instruction, which reads:

Valid driver's license" means a driver's license recognized by the Department of Highway Safety and Motor Vehicles which has not expired, been *suspended*, revoked or canceled. Emphasis added.

The Court explained that the license the Defendant had was only valid for business purposes, and that the Defendant's license was under suspension. T. 17-18. The Court denied the Judgment of Acquittal. T. 17.

The Defense then called the Defendant to the stand. T. 18. The Defendant testified that he went to his girlfriend's house on August 22, 2012. The Defendant testified that he went to his girlfriend's house, then to get something to eat, and was then going to head to his house. T. 20. The Defendant admitted that going to his girlfriend's house was not business related. T. 23. The Defendant admitted that his girlfriend's address is not his legal address. T. 23.

After the Defense rested, the State recalled Officer Knoeller. T. 25. Officer Knoeller testified that the Defendant had told him that he was coming from a friend's house, and that neither going to that friend's house or going to Checkers was business related. T. 25-26.

The Defense moved again for a Judgment of Acquittal. The Court ruled that based on Fla. Std. Jury Instr. (Crim.) 28.9 the motion was denied.

This was explained by the Court:

The theory of the State is that they can charge somebody either way, violating the BPO restriction, or they can charge somebody with not having a valid driver's license for the purpose with which they were operating the vehicle at the date and time in question. Because this was a valid license for a limited purpose. If it was being used for a purpose other than the limitation put on it by this exhibit, then it's not a valid license.

Defense Counsel argued that the Defendant using a business purposes only permit improperly was another crime, of which the State had originally charged the Defendant with. T. 30.

The Court responded with the following explanation:

I heard you the first time. I grilled her [State] on that, but there's a lot of crimes in Florida, and in other States that you can charge under multiple theories, under multiple ways.

The Court denied the Judgment of Acquittal. T. 31. The Court then found the Defendant Guilty of NVDL. T. 34. The Court also found that the Defendant was not entitled to a Public Defender for purposes of Appeal, and should not have been appointed one for purposes of trial based on his affidavit of

indigent status. T. 35-36. The Court explained that the Defendant owns a 2005 Cadillac Escalade, which has no liens on it according to the Department of Motor Vehicles. T. 36. Furthermore, the Court later issued an Order denying the appointment of the Public Defender for purposes of appeal.

STANDARD OF REVIEW

Whether or not the trial court erred in its interpretation of the Florida Statute and Jury Instruction, the standard of review is under the Abuse of Discretion standard. *Davis v. State*, 922 So.2d 438 (Fla. 5th DCA 2006).

ARGUMENT

This Court should strike the pleading of the Defense counsel, because the Public Defender's Office was not appointed for purposes of appeal.

In the alternative, the Court should affirm the trial court's denial of the Defendant's Judgment for Acquittal, because the Defendant drove a vehicle while he had a suspended license, and he was not driving for an employment purpose which violated Florida Statute 322.03(1) – Driving Motor Vehicle Without a License.

**I. THE APPEAL BY DEFENSE COUNSEL HAS BEEN
SUBMITTED BY AN ATTORNEY WHICH IS NOT OF
RECORD AND THE APPEAL SHOULD BE STRICKEN**

**A. THE PUBLIC DEFENDER'S OFFICE WAS NOT
APPOINTED FOR PURPOSES OF APPEAL**

The Trial Court ruled at the end of the trial that the Defendant had issues with his affidavit of indigent status. The Court explained that the Defendant probably should not have been appointed a Public Defender to begin with, since the Defendant owns a 2005 Cadillac Escalade with no liens on it according to the Department of Motor Vehicles. The Court explained that the Defendant would not be entitled to a Public Defender for an appeal. Furthermore, when the Public Defender assigned to the case at the time, filed the Notice of Appeal, he requested the Public Defender be assigned. The Honorable Judge Marblestone issued a Court Order denying the appointment of the Public Defender for appellate purposes. Since the appeal in this case has been filed and written by a party that is not counsel of record, the State respectfully requests it be stricken.

**II. THE TRIAL COURT DID NOT ERR WHEN IT DENIED THE
DEFENSE'S MOTION FOR A JUDGMENT OF ACQUITTAL**

**A. THE TRIAL COURT DID NOT ERR WHEN
INTERPRETING THE LANGUAGE OF THE STANDARD
JURY INSTRUCTIONS IN CRIMINAL CASES (28-9),
DRIVING WITHOUT A VALID LICENSE AND CORRECTLY
DENIED THE DEFENSE'S MOTION FOR JUDGMENT OF
ACQUITTAL**

The first argument raised is that VDLR and NVDL are mutually exclusive. However, both VDLR and NVDL are criminal offenses which punish a Defendant based on the purpose of driving. Furthermore, the offense of VDLR relies on the Defendant having a valid underlying license. VDLR punishes a Defendant for violating a restriction placed upon their license, and NVDL punishes a Defendant for driving for a purpose which the Defendant does not have a valid license. Both of these criminal offenses are predicated on the Defendant performing some act which is not permitted by his license.

The second argument brought is that the Court improperly “altered the statutory language by ruling that the *Standard Jury Instruction in a Criminal Case (28-9), Driving without a Valid License*, should be interpreted to include those who both have had their license previously suspended and

have been issued a hardship license in the form of a ‘business purposes only’ restriction”. This argument was not preserved for appeal, and it should not be heard by this Court. Nevertheless, as explained in *Sheppard v. State*, 659 So.2d 457 (Fla. 5th DCA, 1995) a trial judge has wide discretion in decisions regarding jury instructions. Additionally, the trial Judge did not include additional language in the Jury Instruction. Rather when the Judge pronounced the verdict, he explained “I’m going to find the Defendant guilty of driving without a valid license ..., and that the license was not a valid license as the standard jury instruction defines for which purposes for which he was driving on that morning.” T. 34-35. The trial judge clearly states that in finding his verdict he used the Standard Jury Instruction, and based on the definition of a valid license as provided in that instruction, he did not believe that the Defendant had a valid license. The Florida Supreme Court explained in *Petion v. State*, 48 So.3d 726 (Fla. 2010) citing *Spataro v. State*, 179 So.2d 873 (Fla. 2d DCA 1965), that the factual findings of the judge are entitled to the weight of a jury verdict.

The initial brief refers to *Crain v. State*, 79 So.3d 118 (Fla. 1st DCA 2012) in regards to statutory construction. In *Crain*, the Court ruled that a Defendant could not be convicted of driving while his license was revoked, if he never had a license. However, *Crain* is only persuasive authority for

the 5th DCA, since it is a decision from the 1st DCA. A case that is in conflict with *Crain* is the case of *State v. Bletcher*, 763 so.2d 1977 (Fla. 5th DCA 2000), which is binding caselaw, wherein that Court ruled that the Defendant could be convicted of driving while his license was revoked because his *driving privilege* had been revoked. In our case, the Defendant had a suspended license and was given the privilege to drive to and from work. The only purpose that the Defendant was allowed to drive for was to go to and from work. The Defendant in our case admitted that neither going to his girlfriend's house or going to Checkers was in any way related to his job. Therefore, for the purpose for which the Defendant was driving, he did not have a valid license.

The third argument raised is the Legislature intended for the restricted "business purposes only" license to be a valid license. Further, the Appellant argued, "The Appellant had a 'business purposes only' license, and *although it is a restricted license*, it is a valid driver's license issued by the Department of Highway Safety and Motor Vehicles in the State of Florida" (*emphasis added*). A "business purposes only" or "employment purposes only" license is only valid for the purpose for which it is issued. Pursuant to §322.271, Florida Statutes (2011), a "Driving privilege restricted to employment purposes only" means a driving privilege that is

limited to driving to and from work and any necessary on-the-job driving required by an employer or occupation.’ However, a business purposes only restriction means “a driving privilege that is limited to any necessary driving to maintain livelihood, including driving to and from work, necessary on-the-job driving, driving for educational purposes, and driving for church and for medical purposes.” §322.271, Florida Statutes (2011). When a person is driving on either of these licenses, they are not allowed to drive to their girlfriend’s house, drive to the beach, to the mall, etc. Individuals who have had their license suspended for refusing to provide a breath sample, have been granted a restricted privilege to drive to work in the form of a “business purposes only” or “employment purposes only” license. **These types of licenses are not valid for any other purpose.** The purpose for which the Defendant was driving that night, to go to his girlfriend’s house and to get something to eat at Checkers, was not a purpose which is allowed by either “business purposes only” or “employment purposes only” licenses, and therefore, the Defendant was not driving with a valid license when stopped at the time of the offense.

**B. THE TRIAL COURT DID NOT ERR WHEN IT DENIED
DEFENSE'S MOTION FOR JUDGMENT OF ACQUITTAL,**

**BECAUSE DRIVING TO HIS GIRLFRIEND'S HOUSE AND
TO GET FOOD IS A VIOLATION OF A RESTRICTED
"EMPLOYMENT PURPOSES ONLY" LICENSE**

i. EMPLOYMENT PURPOSES ONLY LICENSE

The Defendant in this case had an "Employment Purposes Only" license. R. 16. Pursuant to §322.271, Florida Statutes (2011), a "Driving privilege restricted to employment purposes only" means a driving privilege that is limited to driving to and from work and any necessary on-the-job driving required by an employer or occupation.' Compare this to a business purposes only restriction which means "a driving privilege that is limited to any necessary driving to maintain livelihood, including driving to and from work, necessary on-the-job driving, driving for educational purposes, and driving for church and for medical purposes." §322.271, Florida Statutes (2011). Based on the plain reading of the Statute, it is clear that an Employment Purposes only license is more restrictive than the Business Purposes Only license. An employment purposes only license, allows a driver to *only* go to and from work. In our case, the Defendant testified that he went to his girlfriend's house, then to get something to eat, and was then going to head to his house. T. 20. The Defendant admitted that going to his girlfriend's house was not business related. T. 23. The Defendant admitted

that his girlfriend's address is not his legal address. T. 23. Furthermore, Officer Knoeller testified that the Defendant had told him that he was coming from a friend's house, and that neither going to that friend's house or going to Checkers was business/employment related. T. 25-26. Either of these actions, going to his girlfriend's house or going to Checkers, is a violation of his driver's license restriction. It is clear from the record and the Defendant's admissions that the Defendant was not driving on August 22, 2012 for an employment purpose.

i. BUSINESS PURPOSES ONLY LICENSE

Even if this Court finds that the Defendant had a Business Purposes Only Permit, the Defendant was still not driving for a purpose that is permitted. In *State v. Quiroli*, 9 Fla. L. Weekly Supp. 780b (Fla. Palm Beach County Ct. Sept. 12, 2002), the Court found that a temporary driving permit restricted to business purposes cannot be used for pleasure, recreational, or nonessential driving. In that case the Defendant was just driving to get food from Burger King; however, in our case the Defendant was not just driving to get food. In *Allart v. State*, 9 Fla. L. Weekly Supp. 499 (Fla. 6th Cir. Ct. June 27, 2001), the Court explored whether when a Defendant is going to get food and stops at another location first, if that is permissible under the law. The evidence in *Allart* was that the Defendant

had left work about 5:30 and had spent his time visiting a friend, drinking beer, and behaving as if he had no restriction at all. The Court explained, "The idea that it was all permissible as long as he intended to end his sojourn at McDonalds is not persuasive." Furthermore, the Court ruled that the trial judge was free to conclude that the evidence showed a violation of the driver's restriction. The Court further explained:

This Court holds that as a matter of law a business purposes only restriction permits a driver to drive to shop for the basic necessities of life, such as, ...food. The question in this case is what was the appellant actually doing when he was driving. If he was merely coming from his house to McDonalds to get something to eat, that was permissible. If, on the other hand, this drive was part of a larger sojourn, then that would be a violation.

In our case, the Defendant admits to going to his girlfriend's house and going to get something to eat. Furthermore, in *Dicks v. State*, 15 Fla. L. Weekly Supp. 791b (Broward County, May 17, 2008), the court found that going to a friend's house and going to get something to eat was a violation of the business purposes only restriction. If the Defendant had only gotten something to eat, his actions would not have amounted to violating a business purposes only restriction; however, the Defendant in our case went to his girlfriend's house and to get something to eat, which is a violation of a business purposes only permit.

CONCLUSION

This appeal has been submitted by an attorney which is not the counsel of record; therefore, this Court should strike the pleading.

The trial court did not err when it denied the Defendant's motion for Judgment of Acquittal, and the trial court correctly applied the Standard Jury Instructions to the facts presented at trial to reach a lawful verdict.

Furthermore, the trial court did not err when it denied the Defendant's motion for Judgment of Acquittal, because based on the preceding case law, the Defendant's actions of going to his girlfriend's house and going to Checkers is not a permissible purpose granted by either a "business purposes only" or "employment purposes only" license; therefore, the Defendant was driving without a valid license.

WHEREFORE, the State respectfully requests this Court to affirm the trial court's denial of the Defendant's motion for Judgment of Acquittal.

CERTIFICATE OF ELECTRONIC SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by ELECTRONIC DELIVERY TO CHRISTEN KELLER, at the following email address: KHILL@PD18.NET, Attorney for the Appellant, and a courtesy copy to the Honorable DONALD MARBLESTON by courier delivery, on this 24th day of May 2013.

PHIL ARCHER
STATE ATTORNEY

BY:

Amy Moore
AMY L. MOORE

Assistant State Attorney

Florida Bar No.: 95674

101 Bush Blvd.

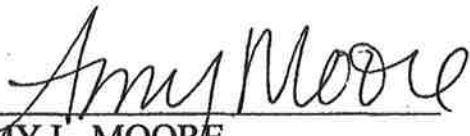
Sanford, FL. 32773

(407) 665-6000

SemCtyCourtAppeals@sa18.state.fl.us

**CERTIFICATION OF COMPLIANCE WITH
FORMATTING RULE**

I hereby certify that Appellee's Answer complies with the formatting requirements of Florida Rules of Appellate Procedure 9.210. Dated this 24th day of May, 2013.


AMY L. MOORE
Assistant State Attorney
Florida Bar No.: 95674
SemCtyCourtAppeals@sa18.state.fl.us