

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, STATE OF FLORIDA
CRIMINAL DIVISION

STATE OF FLORIDA,
Plaintiff,

CASE NO.: CRC-1400216AES

v.

DIVISION: 1

CURTIS JUDSON REEVES,
Defendant.

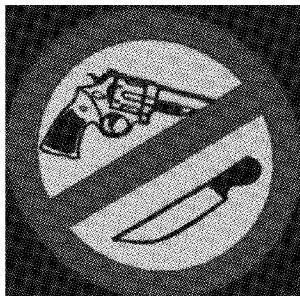
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**DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE AND
TESTIMONY REGARDING THE COBB THEATERS' SIGNAGE
PROHIBITING FIREARMS WITHIN THE THEATER**

COMES NOW, Defendant, CURTIS JUDSON REEVES, by and through undersigned counsel and hereby respectfully requests this Honorable Court to enter an order excluding evidence and testimony regarding any signage displayed at the Cobb Theaters which prohibited firearms, and as grounds therefore states as follows:

Defense's Position

1. The Cobb Theaters displayed two types of signs that prohibited weapons or firearms within the theater. The first was a sticker attached to the ticket window which stated: "NO WEAPONS OR FIREARMS." The second sign was a red circle with a line through it containing a picture of a knife and a gun, which were displayed on the entryway doors to the theater. Both signs at issue from the Cobb Theater are set out below:



2. In a self-defense case, it is the circumstances by which the Defendant was surrounded at the time the force was used that is relevant.
3. Any evidence or testimony related to these signs will only inflame the jury or appeal improperly to the jury's emotions.
4. Likewise, the introduction of these prohibiting signs will only confuse or mislead the jury, as Mr. Reeves was legally in possession of his firearm. He possessed a certification to carry a concealed firearm and was certified under the Law Enforcement Officer Safety Act.
5. Finally, the State agreed in recent conversation with defense counsel Dino Michaels that evidence or testimony related to the above signs is not relevant to any material fact at issue.

Argument

The prerequisite to the admissibility of evidence is relevancy. *Woolman v. State*, 292 So. 3d 530, 533 (Fla. 2d DCA 2020). Evidence tending to prove or disprove a material fact is relevant and therefore admissible, unless otherwise precluded by law. *Id.* at 533-34; *see also* §§ 90.401, 402, Fla. Stat. (2014). To be legally relevant, evidence must pass the tests of materiality (bearing on a fact to be proved), competency (being testified to by one in a position to know), and legal relevancy (having a tendency to make the fact more or less probable) and must not be excluded for other countervailing reasons. *Sims v. Brown*, 574 So. 2d 131, 134 (Fla.1991).

However, “relevancy is not the only test for admissibility. In every case, the trial court must also balance whether the probative value of the relevant evidence is substantially outweighed by the danger of unfair prejudice, confusion of issues, misleading the jury, or

needless presentation of cumulative evidence.” *Woolman*, 292 So. 3d at 534 (quoting *Wright v. State*, 19 So. 3d 277, 296 (Fla.2009)); *see also* § 90.403.

Proper application of section 90.403 requires a balancing test by the trial judge. Only when the unfair prejudice substantially outweighs the probative value of the evidence must the evidence be excluded. *McDuffie v. State*, 970 So. 2d 312, 327 (Fla.2007). “Unfair prejudice” has been described as “an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one.” *Id.* (quoting *Brown v. State*, 719 So. 2d 882, 885 (Fla.1998)). This rule of exclusion is directed at evidence which inflames the jury or appeals improperly to the jury’s emotions. *Id.* The trial court is obligated to exclude evidence in which unfair prejudice outweighs the probative value in order to avoid the danger that a jury will convict a defendant based upon reasons other than evidence establishing his guilt. *Id.*

At the time of the incident, Mr. Reeves possessed a valid permit to carry a concealed firearm. Likewise, Mr. Reeves, as a retired law enforcement officer, had successfully completed the necessary standards for qualification under the Law Enforcement Officer Safety Act (“LEOSA”). Under this Act, Mr. Reeves was permitted to carry a concealed firearm. There is no question that Mr. Reeves was properly qualified to have his firearm with him at the time of the incident. As such, any signs prohibiting the general public from entering the movie theater with a firearm does not apply to Mr. Reeves and is not relevant to the material issues in this case. Any testimony or evidence related to these signs would do nothing more than confuse or mislead the jury.

WHEREFORE, the Defendant, CURTIS JUDSON REEVES, respectfully requests the Court to enter an Order excluding all evidence and testimony regarding any signage displayed which prohibited firearms inside the Cobb Theater.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic delivery to the Office of the State Attorney for the Sixth Judicial Circuit, c/o Glenn Martin, Esq. at glennmartin@flsa6.gov on this 3rd day of February 2022.

/s/ Richard Escobar

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