

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

CHRISTOPHER MORGAN,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 1D2025-0377

**STATE OF FLORIDA’S NOTICE REGARDING ITS POSITION AND
MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEF**

The State previously filed an answer brief taking the position that Appellant Christopher Morgan was properly convicted of being a felon in possession of a firearm. On further reflection, the Attorney General is of the view that the conviction violated Morgan’s Second Amendment right to keep and bear arms. Properly understood, the Second Amendment permits the government to dispossess felons whose convictions indicate that the felon is *dangerous*, but not merely all felons as a categorical matter. The Attorney General therefore notifies the Court of this amended position in advance of the oral argument scheduled for Monday, February 16, 2026.

Though the State is prepared to explain its position at oral argument, the Attorney General also recommends that the Court permit it to file a supplemental brief. The basis for that request is as follows.

Appellant Christopher Morgan was convicted in the State of Pennsylvania in 2007 of carrying a firearm without a license—a third degree felony under Pennsylvania law. *See* 18 Pa. C.S. § 6106(a)(1). In 2022, during a traffic stop in Florida, Morgan informed law enforcement that he had a firearm in the center console of his car and that he had been previously convicted of a felony under Pennsylvania law in 2007. Shortly thereafter, the State charged Morgan with possession of a firearm by a felon. *See* § 790.23(1)(e), Fla. Stat. Morgan has no other criminal convictions, other than the 2007 conviction.

Before the trial court, Morgan moved dismiss, alleging that section 790.23 is unconstitutional both facially and as applied to him under the Second Amendment. The trial court denied his motion to dismiss, and Morgan subsequently pleaded no contest to his felon-in-possession charge. He reserved the right to appeal the denial of

his motion to dismiss, and the trial court sentenced him to two days in jail with time already served plus costs.

On September 30, 2025, the Attorney General filed an answer brief in this appeal defending the conviction and responding to Morgan's claim that his conviction for possession of a firearm by a felon violates the Second Amendment as applied to him. On studied reflection, the Attorney General has concluded that the conviction does indeed infringe Morgan's right, as a nondangerous felon, to keep and bear arms. The State must therefore confess error and urge this Court to reverse.

The Attorney General is the "chief state legal officer" of Florida. Art. IV, § 4(b), Fla. Const. It is the Attorney General's duty to represent the State in criminal appeals before this Court. §16.01(4), Fla. Stat. Moreover, the Attorney General swore an oath to uphold the U.S. Constitution. It is thus the Attorney General's duty to admit when he believes the State has obtained a conviction in violation of the Constitution. Indeed, although the Attorney General "ordinarily" defends state law, he must also "exercise conscientious judgment" in the discharge of his duties. *See The Attorney General's Duty to Defend*

and Enforce Constitutionally Objectionable Legislation, 43 Op. Att’y Gen. 55, 55–56 (1980), <https://www.justice.gov/file/149186-0/dl?inline>.

If permitted to file a supplemental brief, the Attorney General would discuss the lack of historical evidence supporting the dispossession of all felons, as distinct from the strong historical evidence supporting the disposition of *dangerous* felons. That history would assist the Court in resolving this important issue.

The Attorney General proposes that the supplemental brief be due Thursday, February 26, 2026.

The State has conferred with Morgan’s counsel and is authorized to represent that Morgan does not oppose this request.

CONCLUSION

The State hereby notifies the Court of its amended position in this case. And it respectfully requests leave to file a supplemental brief by February 26, 2026.

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February 13, 2026

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CERTIFICATE OF COMPLIANCE

Undersigned certifies that this document complies with the font and word count requirements of Fla. R. App. P. 9.045(e) and 9.210(a)(2).

/s/ Christine K. Pratt
Assistant Solicitor General

CERTIFICATE OF SERVICE

I CERTIFY that on February 13, 2026, I electronically filed the foregoing document with the Clerk of the Court using the Florida courts' e-filing portal, causing it to be served on all counsel of record:

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