

Case No. \_\_\_\_\_

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**IN THE CIRCUIT COURT IN AND FOR THE 11<sup>TH</sup> JUDICIAL CIRCUIT  
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

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JONATHAN CORBETT,  
Defendant/Appellant

v.

COUNTY OF MIAMI-DADE, STATE OF FLORIDA,  
Plaintiff/Appellee

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On Appeal From the Parking Violations Bureau  
Case No. 55499802

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**BRIEF OF APPELLANT JONATHAN CORBETT**

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## **STATEMENT REGARDING ORAL ARGUMENT**

Defendant/Appellant Jonathan Corbett respectfully requests oral arguments. As this case will likely be absent a record of the proceedings (as to the best of the Defendant/Appellant's knowledge there was no court reporter present for his original hearing), oral arguments will be the best way to clarify any discrepancies as to the contents of the hearing.

## STATEMENT OF THE CASE AND FACTS

On April 1<sup>st</sup>, 2011, Defendant/Appellant Corbett was standing his vehicle behind his office at 407 Lincoln Road while in the process of actively loading said vehicle. At all times, Corbett's trunk was open, and at least one person remained with the vehicle while Corbett and a third individual moved boxes from the office to the vehicle.

While Corbett was retrieving a box, a Miami Beach public safety officer approached the vehicle and informed the person with the vehicle that she would be issuing a citation and the vehicle needed to be moved, or it would be towed. The person with the vehicle explained the situation of loading.

Corbett returned to the vehicle, with a box in hand, to find the public safety officer writing the citation. Corbett explained that he was actively loading the vehicle. The officer proceeded to finish the ticket and told Corbett that he must move or be towed. Corbett moved the vehicle.

The citation issued had a mark indicating that it was a citation for "prohibited parking." The "additional particulars" section of the citation has "VEH PRKD ON SIDEWALK" hand-written on it. Corbett assumes that "VEH PRKD" is an abbreviation for "vehicle parked." The citation was entered into the County's computer with a violation charged of "Parking In Prohibited Areas."

Corbett entered a plea of not guilty to the citation. On September 15<sup>th</sup>, 2011, Corbett was found liable for a parking violation in front of a hearing officer of the Traffic Violations Bureau.

During this hearing, Corbett's argument was that his vehicle was standing rather than parked. He waived his right to testify and instead cross-examined the public safety officer.

Corbett asked the public safety officer if she could define "parking" from memory to the best of her abilities. The hearing officer, *sua sponte*, prohibited this line of questioning. Corbett objected to this as an infringement on his right to confront his accuser, but the hearing officer would not allow Corbett to continue.

Corbett later asked the public safety officer if she could remember if the trunk of the vehicle was open. She responded that she did not recall. Corbett asked the public safety officer if she could remember if there was anyone with the vehicle when she approached it. She responded that she did not recall.

Corbett then asked the public safety officer if she made any inquiry whatsoever to determine if the vehicle was parked rather than standing. The public safety officer responded that if the gear shift was in park, the car was parked.

The State produced no other evidence to establish the infraction.

## **SUMMARY OF ARGUMENT**

It is elementary that an element of the infraction of “prohibited parking” is that a vehicle was, indeed, parked. No evidence was presented by the State to establish this, and therefore the case should have been dismissed.

The hearing officer’s failure to allow Corbett to fully cross-examine the witness is further a violation of Corbett’s right to due process.

## ARGUMENT

### **I. The State Failed to Present Evidence to Carry Its Burden of Proof**

In the State of Florida, parking violations are required to be proven beyond a reasonable doubt. *See* Fla. Stat. 318.14(6). This applies to all elements of every charge.

In the instant case, Corbett was charged with “prohibited parking.” The elements of this infraction are 1) that the defendant parked a vehicle, and 2) that the place at which the defendant parked his vehicle was prohibited. The State failed to provide *any* evidence, let alone evidence beyond a reasonable doubt, that Corbett was parked.

During the hearing, it was made abundantly clear that the public safety officer who issued the citation to Corbett did not know the difference between parking and standing. Her assertion that a vehicle is parked if the gear shift is in park is legally incorrect. In Florida, parking is defined as “The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers as may be permitted by law under this chapter.” Therefore, a two-part analysis must be done to determine whether a vehicle was parked: 1) was the vehicle standing, and 2) was the vehicle not engaged in lawful loading and unloading.



The fact that the public safety officer issuing the citation was unable to verbalize this distinction in court places serious doubts on her credibility. If the issuing officer does not know how to determine if an infraction was committed, it is quite possible that she has neglected to investigate the facts required to prove that crime.

In this case, it is stipulated that the public safety officer did not investigate, or at the least, did not recall investigating, the facts required to prove that parking occurred. Her testimony that she did not recall if the vehicle was in the process of loading or unloading left the court without any testimony or evidence whatsoever that Corbett was indeed parked.

## **II. Corbett was Denied Due Process**

The cornerstone of our judicial process is an adversarial system designed to fairly produce the evidence required for a court to make a decision. As a part of this, the Sixth and Fourteenth Amendments to the U.S. Constitution guarantee everyone in every court of the land the right to confront his or her accusers.

It is true that “trial judges retain wide latitude insofar as the Confrontation Clause is concerned to impose reasonable limits on such cross-examination based on concerns about, among other things, harassment, prejudice, confusion of the issues,

the witness' safety, or interrogation that is repetitive or only marginally relevant.” *Delaware v. Van Arsdall*, 475 U.S. 673, 679 (1986). However, in the instant case, there was no legal basis for this *sua sponte* objection to Corbett’s questioning, and it served no constitutionally-permissible purpose. The question was entirely relevant and appropriate for the purpose of establishing that the hearing officer was mistaken in her assertion that Corbett was parked. While the hearing officer refused to explain why she would not allow the cross-examination, it seemed apparent that her motivation was in the interest of time, rather than the interest of justice.

Nor can this error on the part of the hearing officer be considered “harmless.” The issue being raised by Corbett – whether or not the witness was knowledgeable enough to put forth testimony with sufficient credibility – was central to Corbett’s case. There were no other witnesses against Corbett, and this constituted Corbett’s only opportunity to raise the issue.

## CONCLUSION

For the above reasons, the judgment of the lower court must be overturned, and the Defendant/Appellant prays for the following relief:

1. Judicial acquittal of the parking violation
2. Cost of the appeal (\$301.00)
3. Return of the bond Corbett posted for the infraction
4. Any other relief as this Court may deem proper.

Dated: Miami, Florida  
November 15th, 2011

Respectfully submitted,

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## CERTIFICATE OF COMPLIANCE

I, Jonathan Corbett, *pro se* Appellant in the above captioned case, hereby affirm that that this brief complies with Fla. R. App. P. 9.210(a)(2) because it uses 14-point Times New Roman font.

Dated: Miami, Florida  
November 15th, 2011

Respectfully submitted,

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