

LEGAL EAGLE

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Limits on the Unhoused

Jeremy Stafford was asleep on a bench at a bus stop on Washington Avenue in Miami Beach. A Miami Beach police officer tapped him on his shoulder, woke him up, and arrested him for violating City of Miami Beach Ordinance 70-45. The ordinance prohibits camping or sleeping in public.

The ordinance requires that, before arrest, a potential offender identified as homeless must first be offered and refuse shelter. The arrest affidavit in the present case designated Stafford as homeless based on prior police contact, but did not indicate that the arresting officer offered shelter or that Stafford refused such offer. Stafford petitioned for a writ of habeas corpus. Because the arrest affidavit failed to provide probable cause for the arrest, the D.C.A. granted the petition.

The Ordinance prohibits lodging or residing in an outdoor space. "If a law enforcement officer encounters a person engaged in public camping or sleeping who volunteers that he or she has no home or other permanent shelter, he or she *must be given an opportunity to voluntarily enter a homeless shelter* or similar facility ...or mutually consensual reunification with family or friends in any location If no homeless shelter or other facility, or

government assistance that would result in immediate housing is available, *an arrest may not be made.*"

Issue:

While not raised as an issue in the present case, and despite the case interpreting a Dade County Ordinance, the heart of the case is whether Government promulgating legislation limiting homeless persons from sleeping on public property is constitutional. **Yes.**

Florida's New Homeless Law:

F.S. 125.0231, "Public camping and public sleeping," prohibits sleeping or camping on public property without a permit and requires local governments to provide temporary housing and mental health/substance abuse services. The law allows residents to sue cities and counties that don't enforce the ban and also authorizes counties to create designated, temporary encampment areas with specific regulations. The law took effect on October 1, 2024.

Key provisions of the law:

It is now illegal for cities and counties to permit camping or sleeping on public property unless it is in designated, permitted areas. Local governments must ensure homeless individuals receive mental health and substance abuse services and have access to temporary shelters.

Officers should consult with their agency legal advisors to confirm the interpretation provided in this publication and to what extent it will affect their actions.

Past issues of the Legal Eagle over three years old should not be relied upon due to change in statutes and case law.

However, counties can designate specific areas for homeless encampments, but these *cannot last for more than a year* and must have rules on alcohol/drug use, sanitation, and security.

On March 20, 2024, Governor Ron DeSantis signed HB 1365, stating he did so to keep Florida's streets safe. "Florida will not allow homeless encampments to intrude on its citizens or undermine their quality of life like we see in states like New York and California." "The legislation I signed today upholds our commitment to law and order while also ensuring homeless individuals have the resources they need to get back on their feet."

Penalizing Public Sleeping:

F.S. 125.0231(1) provides: "Public camping or sleeping" means:

- a. Lodging or residing overnight in a temporary outdoor habitation used as a dwelling or living space and evidenced by the erection of a tent or other temporary shelter, the presence of bedding or pillows, or the storage of personal belongings; or
- b. Lodging or residing overnight in an outdoor space without a tent or other temporary shelter.

F.S. 125.0231(2) Except as provided in subsection (3), a county or municipality may not authorize or otherwise allow any person to regularly engage in public camping or sleeping on any public property, including, but not limited to, any public building or its grounds and any public right-of-way under the jurisdiction of the county or municipality, as applicable.

F.S. 125.0231(3) A county may, by majority vote of the county's governing body, designate property owned

by the county or a municipality within the boundaries of the county to be used for a continuous period of no longer than 1 year for the purposes of public camping or sleeping.

The United States Supreme Court considered these issues in *City of Grant Pass, Oregon v. Johnson*, June 28, 2024. The Court ruled that the enforcement and penalizing of generally applicable laws regulating camping on public property does not constitute "cruel and unusual punishment" prohibited by the Eighth Amendment, i.e., is not unconstitutional.

"Homelessness is complex. Its causes are many. So may be the public policy responses required to address it. The question this case presents is whether the Eighth Amendment grants federal judges primary responsibility for assessing those causes and devising those responses. A handful of federal judges cannot begin to 'match' the collective wisdom the American people possess in deciding 'how best to handle' a pressing social question like homelessness. The Constitution's Eighth Amendment serves many important functions, but it does not authorize federal judges to wrest those rights and responsibilities from the American people and in their place dictate this Nation's homelessness policy. Reversed."

In essence, the Court found that the Ordinance did not punish one for his *status* as an unhoused person, but rather for the *act* of sleeping in public. "Under the city's laws, it makes no difference whether the charged Defendant is homeless, a backpacker on vacation passing through town, or a student who abandons his dorm room to camp out

in protest on the lawn of a municipal building."

Court's Ruling:

"The ordinance does not criminalize homelessness. See, e.g., *City of Grants Pass, Oregon v. Johnson*, (S.Ct. 2024). ... There is no differentiation in the ordinance between the first violation and subsequent ones—it is a criminal offense subject to arrest and jail. But on the other hand, the ordinance here makes a distinction based on homeless status. It requires that a self-identified homeless person 'must be given an opportunity' to shelter and must reject that request.

"We must examine the requirement to offer shelter in context. And in conducting such examination we conclude that the requirement to offer shelter to a self-identified homeless person who would otherwise violate the statute is not an affirmative defense, it is a condition precedent to arrest. ... Here, a self-identified homeless person, identified as such within the four corners of the arrest affidavit, 'must be given an opportunity to voluntarily enter a homeless shelter or similar facility' before arrest."

"In this specific context, a condition precedent, the offer-of-shelter and refusal requirement that must occur before arrest, exists. It follows then that, the arrest affidavit's failure to indicate that such condition precedent was satisfied fails to establish the State's burden of proof. We therefore hold that in examining the four corners of the arrest affidavit, the court erred in finding probable cause for the commission of an arrestable offense. Petition granted."

(Continued on page 9)

'PERPETUALLY TIRED': WHAT OFFICERS ARE SAYING ABOUT FATIGUE

HERE'S WHAT POLICE OFFICERS ARE SAYING ...

71%

report having trouble
sleeping due to work-
related stress

68%

report feeling
unmotivated due to
poor sleep or fatigue

42%

report fatigue
significantly reduces
their performance

34%

report work hours or
shifts frequently
disrupt their sleep

DID YOU KNOW?

Officers experiencing
chronic exhaustion are
slower to react, less alert
and more prone to errors
in high-stakes situations.



**2,833 LEOs responded
to the 2024 survey**

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Recent Case Law

Erratic Driving

After observing Mikeal Hamilton's erratic driving, causing him to believe he was injured, ill, or otherwise impaired, Officer made a traffic stop. Hamilton was subsequently arrested for driving under the influence. He pled no contest and reserved the right to appeal the denial of his motion to suppress evidence obtained during the traffic stop. The trial court denied the motion. That ruling was affirmed on appeal.

Erratic Driving:

The case of *State v. Sheldon*, (5DCA 2024) is instructive here. A Florida Highway Patrol trooper observed Christopher Sheldon weaving several times over the fog line around two o'clock in the morning. Trooper initiated a traffic stop to conduct a "welfare check" because he was concerned the driver was ill, impaired, sleepy, or having mechanical issues. The D.C.A. found the stop lawful.

Welfare checks fall under the "community caretaking doctrine," an exception to the Fourth Amendment's search warrant requirement, which recognizes the duty of police officers to ensure the safety and welfare of the citizenry at large. *Taylor v. State*, (1DCA 2021). Under the welfare check exception, a "legitimate concern for the safety of the motoring public can warrant a brief investigatory stop to determine whether a driver is ill, tired, or driving under the influence in situations less suspicious than that required for other types of criminal behavior."

See also *State v. Rodriguez*, (5DCA 2005). The DCA opined: "Contrary to the trial court's struggle with this concept, Florida law is clear that an officer is justified in stopping a vehicle even *in the absence of a traffic infraction* when the vehicle is being operated in an unusual manner causing legitimate concern for the safety of the public. See, *Yanes v. State*, (5DCA 2004) (police officer's observation of vehicle crossing fog line three times in space of one mile provided reasonable suspicion sufficient to justify vehicle stop, *irrespective of whether anyone was endangered by such conduct*, where nature of vehicle's abnormal movement caused officer to suspect that driver was impaired or otherwise unfit to drive); *State v. Carrillo*, (5DCA 1987) (weaving within lane five times within one-quarter mile sufficient to establish reasonable suspicion of impairment); *Esteen v. State*, (5DCA 1987) (weaving within lane and driving slower than posted speed justified stop based on reasonable suspicion of impairment, unfitness, or vehicle defects, even absent a traffic violation).

"In the present case, the Trooper had specific, articulable facts demonstrating a specific concern, and a traffic stop for a welfare check was justifiable under the circumstances." *State v. Rodriguez*.

Court's Ruling:

"This case reaffirms that 'unusual' or 'erratic' driving can justify a traffic stop, even if it does not necessarily amount to a traffic infraction. Because

the dash-cam video and other record evidence supports the court's conclusion that Hamilton's driving pattern gave the officer reasonable suspicion to believe he was injured, ill, or otherwise impaired, we affirm. See, *State v. Sheldon*, ('Florida law is clear that an officer is justified in stopping a vehicle even in the absence of a traffic infraction when the vehicle is being operated in an unusual manner causing legitimate concern for the safety of the public.'). **AFFIRMED.**"

Lessons Learned:

The community caretaking exception derives from *Cady v. Dombrowski*, (S.Ct.1973), a case in which the Supreme Court upheld the warrantless search of a disabled vehicle when the police reasonably believed that the vehicle's trunk contained a gun. The Court explained that police officers frequently engage in such "community caretaking functions, *totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute.*" Police activity in furtherance of such functions (at least in the motor vehicle context) does not, the Court held, offend the Fourth Amendment so long as it is executed in a reasonable manner pursuant to either "state law or sound police procedure."

Since *Cady*, the community caretaking doctrine has become "a catchall for the wide range of responsibilities that police officers must discharge aside from their criminal enforcement activities." "There are

widely varied circumstances, ranging from helping little children to cross busy streets to navigating the sometimes-stormy seas of neighborhood disturbances, in which police officers demonstrate, over and over again, the importance of the roles that they play in preserving and protecting communities. Given this reality, it is unsurprising that in *Cady*, the Supreme Court determined, in the motor vehicle context, that police officers performing community caretaking functions are entitled to a special measure of constitutional protection.” See, *Caniglia v. Strom*, (1st Cir. 2020).

And well beyond the simple traffic stop, courts have recognized the awesome responsibility officers exercise each day contained within the community caretaking rubric:

“A warrant is not required to break down a door to enter a burning home to rescue occupants or extinguish a fire, to prevent a shooting, or to bring emergency aid to an injured person. The need to protect or preserve life or avoid serious injury is justification for what would be otherwise illegal absent an exigency or emergency. Fires or dead bodies are reported to police by cranks, where no fires or bodies are to be found. Acting in response to reports of ‘dead bodies,’ the police may find the ‘bodies’ to be common drunks, diabetics in shock, or distressed cardiac patients. But the business of policemen and firemen is to act, not to speculate or meditate on whether the report is correct. People could well die in emergencies if police tried to act with the calm deliberation associated with the judicial process. Even the apparently dead often are saved by swift police response. A myriad of circumstances could fall

within the terms ‘exigent circumstances’...e.g., smoke coming out a window or under a door, the sound of gunfire in a house, threats from the inside to shoot through the door at police, reasonable grounds to believe an injured or seriously ill person is being held within.” *Wayne v. United States*, (D.C. Cir. 1963).

Hamilton v. State
6th D.C.A.
(Sept. 5, 2025)

Pretext Traffic Stop

An F.H.P. Trooper sat stationary in his patrol car, observing traffic, tasked with intercepting the flow of contraband and criminal activity. Trooper noticed a black sedan with the driver being “seated very low in his vehicle and pushed back behind the B-pillar”—a posture the trooper took to be “not normal” and “unusual.” The trooper, believing the driver’s behavior to have been “unusual” and “suspicious,” asked FHP’s regional communications center to verify the validity of the sedan’s vehicle tag. Trooper received information from the communications center that the registered owner was Cedrick Powell, who did not have a valid license.

Believing Powell to be operating the sedan without a valid driver’s license, Trooper initiated an investigatory traffic stop. Upon approaching the passenger side of Powell’s car, about a foot away from the window, Trooper detected the odor of “fresh green marijuana.” He asked Powell for his driver’s license, registration, and proof of insurance. The trooper explained to Powell the reason for the stop, informing him that when he ran Powell’s tag, he did

not have a valid driver’s license. Powell confirmed that he had a valid Florida driver’s license but that it had been stolen. Roughly eight minutes into the stop, dispatch confirmed Powell did in fact have a valid Florida driver’s license.

Trooper told Powell that he smelled marijuana in his car. Powell did not correct him or try to claim that he had hemp. Instead, he admitted to having smoked marijuana in his car the previous evening, but he claimed no marijuana was presently in his car. *He also confirmed he did not have a medical marijuana card.* After placing Powell in the backseat of the patrol car, Trooper started searching Powell’s vehicle and found drugs. Specifically, thirteen grams of raw, unburnt marijuana and less than one gram of ecstasy in the car. Trooper then placed Powell under arrest.

Before trial, Powell moved to suppress the items discovered in his car, as well as his statements, arguing the trooper had conducted an unlawful stop, detention, and search. The trial court granted the motion, basing its decision on “profiling.” The court explained,

“*This is pretext.* Because the only reason he would go after any vehicle is because he suspects they’re transporting illegal drugs. And I don’t – he would never have followed or pursued Mr. Powell had he not come up with the *pretext* argument that he looks like a drug dealer because of the way he is sitting in his vehicle.”

On appeal, that ruling was reversed.

Issue:

Did the trial court err by granting the motion to suppress based on the

appearance of pretextual motivation for the stop? **Yes.**

Pretext Stop:

The 6th Circuit ruled in *State v. Hickman*, (6DCA 2023), that the trial court erred by relying on the officer's *subjective* intent in effecting the stop. "The Fourth Amendment to the United States Constitution and section 12 of Florida's Declaration of Rights guarantee citizens the right to be free from unreasonable searches and seizures. See, *Golphin v. State*, (Fla. 2006). A traffic stop is a seizure. See, *Whren v. United States*, (S.Ct.1996). This type of seizure is considered reasonable, though, under the Fourth Amendment where an officer has probable cause to believe a traffic violation has occurred. Thus, *when addressing the constitutional validity of a traffic stop, Florida courts employ a "strict objective test which asks only whether any probable cause for the [traffic] stop existed."*

Stated differently, the officer's subjective motivation for speaking to driver is irrelevant to the determination of whether the stop was reasonable. "Subjective intentions play no role in ordinary, probable-cause Fourth Amendment analysis." See, *Whren*. "In determining whether the suppression order in the instant case should be reversed, we are constrained to review the record under the objective test of *Whren*. When applying the objective test, generally the only determination to be made is whether probable cause existed for the stop in question."

The temporary detention of a motorist upon probable cause to believe that he has violated the traffic laws does not violate the Fourth Amendment's prohibition against

unreasonable seizures, *even if a reasonable officer would not have stopped the motorist absent some additional law enforcement objective.*

In *Holland v. State*, (Fla. 1997), the Supreme Court found *Whren* binding on Florida courts and overruled *State v. Daniel*, (Fla. 1995), which created the "reasonable officer" test.

Court's Ruling:

"An investigative traffic stop is thus 'subject to the constitutional imperative that it not be 'unreasonable' under the circumstances.' See, *Kansas v. Glover*, (S.Ct.2020) (explaining that 'the Fourth Amendment permits an officer to initiate a brief investigative traffic stop when he has a particularized and **objective** basis for suspecting the particular person stopped of criminal activity.' In this context, *the U.S. Supreme Court rejected the pretext objection to a stop, adopting instead a purely objective test.* See, *Whren*, noting that prior cases 'foreclose any argument that the constitutional reasonableness of traffic stops depends on the *actual motivations* of the individual officers involved,' so '**subjective** intentions play no role' in the Fourth Amendment analysis. Rather, we apply a strictly objective test, which asks only *whether the particular officer who initiated the traffic stop had an objectively reasonable basis for making the stop.*"

"Applying these precepts to the issue before us, we find the 'whole picture' presented to the Trooper provided a particularized and objective basis to suspect that Powell was operating his car without a valid driver's license, a misdemeanor offense in Florida. To be

sure, Powell's 'unusual' and 'suspicious' posture first caught the Trooper's attention, prompting a deeper probe based on those observations. That, however, is not relevant here, as the Trooper did not initiate the traffic stop on that basis alone."

"Before initiating the stop, the Trooper knew the car had a valid Louisiana tag, the car was registered to Powell, and the car was associated with an expired Louisiana identification card in Powell's name. The Trooper also identified the driver of the car as Powell after obtaining a photograph of Powell. The Trooper, however, did not know Powell had a valid Florida driver's license until Powell claimed to have one that had been stolen, and dispatch did not confirm Powell had one until eight minutes into the stop. That is, at the time of the stop, the Trooper possessed no exculpatory information—let alone sufficient information to rebut the reasonable inference that Powell was driving his Louisiana-registered car without a valid Louisiana license. On these facts, the Trooper combined database information and commonsense judgments to "form a reasonable suspicion that [Powell] was potentially engaged in specific criminal activity—driving without a valid driver's license," rendering a sufficient basis for further investigation. The stop was justified."

"Viewed in this context, the record before us amply supports a finding that probable cause existed to search Powell's car. The Trooper had several years of experience with the Criminal Interdiction Unit—the sole mission of which is to interdict drug couriers and other criminal activity—and he had conducted roughly

1,500 traffic stops. He was familiar with the odor of marijuana, having smelled it ‘on a regular basis’ while conducting those stops. Powell also confirmed to the Trooper that *he did not have a medical marijuana card*. And it must not be overlooked that Powell openly admitted to the Trooper that he had smoked marijuana in his car the night before, rather than attempt to mitigate the Trooper’s observation by claiming that the smell emanated from hemp.”

“In finding the Trooper initiated the traffic stop on a pretextual basis and granting the motion to suppress, the trial court committed legal error. The Trooper had an objectively reasonable basis for conducting the traffic stop and, during the ensuing investigation into the reason for the stop, the Trooper developed probable cause sufficient to justify his searching Powell’s car. The order granting suppression cannot stand. REVERSED.”

Lessons Learned:

Suffice it to say, the “reasonable officer test” is dead.

Defendants have claimed that because the police may be tempted to use commonly occurring traffic violations as a means of investigating violations of other laws, the Fourth Amendment test for traffic stops should be whether a “reasonable officer” would have stopped the car for the purpose of enforcing the traffic violation at issue. However, the Florida Supreme Court in *Holland v. State* (1997), foreclosed the argument that ulterior motives can invalidate police conduct justified based on probable cause. In short, if there is a legitimate violation of traffic laws, there cannot be a charge that it was a “pretext stop” by law

enforcement.

The constitutionality of a traffic stop is not dependent on the motivations, biases, or prejudices of the individual officer involved, but rather whether the particular officer who initiated the traffic stop had an objectively reasonable basis for making the stop.”

“Since an actual traffic violation occurred, the ensuing search and seizure of the offending vehicle was reasonable.” *Whren v. United States* (S.Ct.1996).

Therefore, **write the traffic ticket** (warning)! It will rebut any argument made at the inevitable motion to suppress.

State v. Powell
1st D.C.A.
(Aug. 6, 2025)

Pedestrian Infraction

Both the trial court and the D.C.A., on appeal, ruled that the State presented competent, substantial evidence to support the finding that the arresting officer could legally stop Z.S.F. for jaywalking. The D.C.A. affirmed the trial court’s denial of the motion to suppress.

Issue:

Is jaywalking a lawful basis for a police stop? **Yes.** Did the juvenile’s flight and failure to submit to the stop afford a lawful basis for the arrest and its related search? **Yes.**

Jaywalking:

“Jaywalking” is a vernacular word not used in Florida statutes, nor does this commonly used term appear in traffic codes. It refers to a pedestrian crossing a roadway where they are not permitted to do so, such as crossing between two signalized intersections where there is no crosswalk present. While there is no

specific “jaywalking” statute in Florida, it is illegal for pedestrians to cross outside a marked crosswalk or at an intersection against a traffic signal, or to step into the roadway without ensuring it is clear.

Pursuant to Florida Statute 316.130, pedestrians must use available crosswalks, obey all traffic signals, yield to oncoming traffic when crossing outside a crosswalk, and cannot suddenly step into a roadway.

Further, pedestrians must face traffic in areas without sidewalks and stay alert while crossing the street. Although jaywalking is not illegal, it is a non-criminal traffic infraction. As such, pedestrians observed jaywalking may be cited and fined.

F.S. 316.130 Pedestrians; traffic regulations:

(10) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(11) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(12) No pedestrian shall, except in a marked crosswalk, cross a roadway at any other place than by a route at right angles to the curb or by the shortest route to the opposite curb.

(13) Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(14) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices, and, when authorized to cross diagonally, pedestrians shall cross only in accordance with

the official traffic control devices pertaining to such crossing movements.

(19) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a pedestrian violation ...

318.14 Noncriminal traffic infractions; exception

(2) The officer must certify by electronic, electronic facsimile, or written signature that the citation was delivered to the person cited. This certification is prima facie evidence that the person cited was served with the citation.

(3) Any person who willfully refuses to accept and sign a summons as provided in subsection (2) commits a misdemeanor of the second degree.

See also F.S. 318.143 which provides sanctions for infractions by minors.

Obstructing Without Violence:

The Florida Supreme Court, in *C.E.L. v. State*, (Fla.2009), analyzed flight as obstruction. The Court tied the act of flight to the statute:

“Therefore, the act of flight alone is not a criminal offense. To be guilty of unlawfully resisting an officer, an individual who flees must *know of the officer’s intent to detain him*, and the officer must be justified in making the stop at the point when the command to stop is issued. A stop is justified when an officer observes facts giving rise to a reasonable and well-founded suspicion that criminal activity has occurred or is about to occur.”

Court’s Ruling:

“We conclude the State presented competent, substantial evidence to support the trial court’s finding that the arresting officer could legally stop Z.S.F. for jaywalking. While

Z.S.F. contends he was not jaywalking, the officer had an objectively reasonable basis to believe he committed such an act, which was sufficient to justify the stop. As a result, the officer’s attempt to temporarily detain Z.S.F. for this traffic infraction and issue a citation was lawful. In resisting that lawful detention by fleeing, Z.S.F. committed the delinquent act of resisting an officer without violence. The firearm recovered incident to his arrest was therefore lawfully seized. Accordingly, we affirm the trial court’s denial of the motion to suppress.”

“See, *I.B. v. State*, (3DCA 2018) (‘In order to sustain a charge of resisting an officer without violence, the State must prove that the officer was engaged in the lawful execution of a legal duty and that the defendant’s actions obstructed, resisted or opposed the officer in the performance of that duty. Importantly, the ‘element of a lawful execution of a legal duty is satisfied if an officer has either a founded suspicion to stop the person or probable cause to make a warrantless arrest.’ ... Under these circumstances, and considering the observations made by the officer, the trial court properly determined there was founded suspicion to temporarily detain I.B. and, in resisting the officer’s valid attempt to do so, I.B. committed the delinquent act of resisting an officer without violence.’). ... AFFIRMED.”

Lessons Learned:

While not an issue in the present case, the juvenile’s possession of a firearm necessitates a review of the applicable statute.

F.S. 790.22 provides:

(3) A minor under 18 years of age may not possess a firearm, other than

an unloaded firearm at his or her home, unless:

(a) The minor is engaged in a lawful hunting activity and is:

1. At least 16 years of age; or
2. Under 16 years of age and supervised by an adult.

(b) The minor is engaged in a lawful marksmanship competition or practice, or other lawful recreational shooting activity and is:

1. At least 16 years of age; or
2. Under 16 years of age and supervised by an adult who is acting with the consent of the minor’s parent or guardian.

(c) The firearm is unloaded and is being transported by the minor directly to or from an event authorized in paragraph (a) or paragraph (b).

Lastly, *N.R.A. v. Pam Bondi*, U.S. Court of Appeals, 11th Cir. (March 14, 2025), ruled: “The Florida law that prohibits minors from purchasing firearms does not violate the Second and Fourteenth Amendments because it is consistent with our historical tradition of firearm regulation. From the Founding to the late-nineteenth century, our law limited the purchase of firearms by minors in different ways. The Florida law also limits the purchase of firearms by minors. And it does so for the same reason: to stop immature and impulsive individuals, like Nikolas Cruz, [Marjory Stoneman Douglas High School shooter], from harming themselves and others with deadly weapons. Those similarities are sufficient to confirm the constitutionality of the Florida law.”

Z.S.F. v. State
3rd D.C.A.
(Sept. 3, 2025)

(Continued from page 2)

Limits on Unhoused

Lessons Learned:

Clearly, to thwart the potential for civil lawsuits, municipalities will have to establish more shelters. The alternative is to designate areas where people can sleep and camp, as long as they meet the State's minimum standards. These include safety and security, sanitation, access to restrooms and running water, as well as behavioral, mental health, and substance abuse services. Lastly, coordinated inspections with the Department of Children of Families.

Importantly, it should be noted that F.S. 125.0231(5) provides: "This section does not apply to a County during any time period in which the Governor has declared a **state of emergency** in the County or another county immediately adjacent to the County and has sus-

pending the provisions of this section pursuant to s. 252.36. Or,
(b) A **state of emergency** has been declared in the County under Chapter 870.

See also, F.S. 125.023,

Temporary shelter prohibition:

(1) For the purposes of this section, the term "temporary shelter" includes, but is not limited to, a recreational vehicle, trailer, or similar structure placed on a residential property.

(2) Notwithstanding any other law, ordinance, or regulation to the contrary, following the declaration of a **state of emergency** issued by the Governor for a natural emergency as defined in s. 252.34(8) during which a permanent residential structure was damaged and rendered uninhabitable, a County may not prohibit the placement of one temporary shelter on the residential property for up to 36 months after the date

of the declaration or until a certificate of occupancy is issued on the permanent residential structure on the property, whichever occurs first, if all of the following circumstances apply:

(a) The resident makes a good faith effort to rebuild or renovate the damaged permanent residential structure, including, but not limited to, applying for a building permit, submitting a plan or design to the county, or obtaining a construction loan.

(b) The temporary shelter is connected to water and electric utilities and does not present a threat to health and human safety.

(c) The resident lives in the temporary structure.

Stafford v. Green
3rd D.C.A.
(Oct. 24, 2025)

