

**IN THE CIRCUIT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA**

CHRISTOPHER QUINTILIANI,

Appellant,

vs.

STATE OF FLORIDA,

Appellee.

Cir. Case No.: 10-AP-50

Div.: C

Cty. Case No.: 10-MM-24116

Div.: 4

ORDER REVERSING THE JUDGMENT OF THE LOWER COURT

Opinion filed on the ____ day of April, 2011

On appeal from the County Court in and for Escambia County, Thomas E. Johnson, Judge

Jason Cromley, Assistant Public Defender, for Appellant

Office of the State Attorney, for Appellee

*Opinion not final until time expires to file motion for rehearing
and disposition thereof if filed.*

THIS CAUSE is before the Court on Appellant's Notice of Appeal, filed October 22, 2010.

After full consideration of Appellant's initial brief,¹ the record of the proceedings below, and the relevant legal authority, the Court finds as follows:

Appellant was convicted of cruelty to animals following a bench trial. In his appeal, Appellant sets forth two grounds: 1) The record contains neither a written waiver nor a valid oral waiver of appellant's right to a trial by jury; and, in the alternative 2) Appellant's motion for judgment of acquittal should have been granted because the State failed to make a prima facie showing that the defendant carried the dog in a vehicle in a "cruel" manner.

¹ Appellee did not file an answer brief.

Appellant's first ground is well-taken. The record does not reflect that the trial court obtained from Appellant a written or oral waiver of his right to a jury trial. In fact, the defense repeatedly objected to the denial of Appellant's request for a jury trial. See Fla. R. Crim. P. 3.260; Torres v. State, 43 So. 3d 831, 833 - 834 (Fla. 1st DCA 2010); Tucker v. State, 559 So. 2d 218 (Fla. 1990).

The Court affirms the denial of Appellant's motion for judgment of acquittal without further discussion.

Accordingly, Appellant's conviction is **REVERSED** and the case is **REMANDED** for a new trial

/S/ LINDA L. NOBLES _____
LINDA L. NOBLES
CIRCUIT JUDGE

LLN/kn

cc: Christopher Quintiliani, 6453 Meadowfield Circle, Pensacola, FL 32526
Jason Cromey, Assistant Public Defender, Division 4, Office of the Public Defender
Ki McInnis, Assistant State Attorney, Division 4, Office of the State Attorney