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

ERNIE LEE MAGAHA
CLERK OF CIRCUIT COURT
ESCAMBIA COUNTY, FL

2010 NOV 30 P 2: 23

SAMIA YVETTE DUFOUR,

Appellant,

APPEALS DIVISION
FILED & RECORDED

vs.

Cir. Case No.: 10-AP-19

Div.: C

Cty. Case No.: 09-MM-28934

STATE OF FLORIDA,

Appellee.

Case: 2010 AP 000019



00000865044

Dkt: ORD Pg#:

ORDER REVERSING THE JUDGMENT OF THE LOWER COURT

Opinion filed on the 29th day of November, 2010
On appeal from the County Court in and for Escambia County, David B. Ackerman, Judge
Jason Hendly Cromley, Assistant Public Defender, for Appellant
Beau G. Peterson, Assistant State Attorney, for Appellee

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

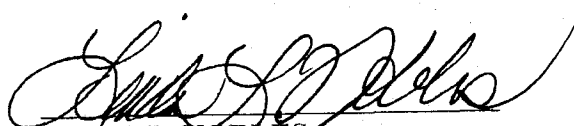
THIS CAUSE is before the Court on Appellant's Notice of Appeal, filed May 20, 2010.
After full consideration of Appellant's initial brief, Appellee's Answer Brief, the record of the
proceedings below, and the relevant legal authority, the Court finds as follows:

Appellant was convicted of Resisting Arrest Without Violence following a bench trial. In
her appeal, Appellant set forth two grounds: 1) Appellant's motion for judgment of acquittal at trial
should have been granted because the State of Florida failed to present competent proof that the Writ
of Possession was legally valid; and 2) Because the record contains neither a written waiver nor a
valid oral waiver of Appellant's right to a trial by jury the case should be remanded for new trial.

The Court affirms the denial of ground one without further discussion. However, as to

ground two, Appellant's argument is well-taken.

The record does not reflect that the trial court obtained from Appellant a written waiver of her right to a jury trial. See Fla. R. Crim. P. 3.260. The record also does not reflect that the trial court obtained a valid oral waiver establishing that Appellant knowingly and intelligently waived her right to a jury trial. See Tucker v. State, 559 So. 2d 218 (Fla. 1990); Torres v. State, 43 So. 3d 831 (Fla. 1st DCA 2010); Barnum v. State, 655 So. 2d 1307 (Fla. 1st DCA 1995). Accordingly, Appellant's conviction is **REVERSED** and the case is **REMANDED** for a new trial.


LINDA L. NOBLES
CIRCUIT JUDGE

LLN/kn

Copies to:

- Jason Hendly Cromey, APD, Office of the Public Defender
- Beau G. Peterson, ASA, Office of the State Attorney
- The Honorable David B. Ackerman