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IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA

KEVIN FREDERICK MCDANIEL,
Appellant,

County Court Case # 10-MM-021570, Div. IV
Circuit Court Case # 10-AP-000030, Div. A

v.

THE STATE OF FLORIDA.,
Appellee.

APPEALS DIVISION
FILED & RECORDED
NOV 29 P 3:06
KIM LEE MAGAHA
CLERK OF CIRCUIT COURT
ESCAMBIA COUNTY, FL

DECISION REVERSING JUDGMENT OF CONVICTION

Per curiam.

This appeal ensues from appellant's conviction after non-jury trial for the offense of improper exhibition of a dangerous weapon. Appellant complains of procedural infirmities occurring in the proceedings below: failure to obtain a lawful waiver of jury trial and failure to allow closing argument before pronouncement of verdict and sentence.

The Court has considered argument of counsel and the State of Florida concedes the contentions of appellant are supported both by law and fact.

Accordingly, it is

ORDERED that the judgment and sentence of conviction entered below is hereby vacated and set aside and this cause is remanded for further proceedings as permitted by law.

DONE AND ORDERED at Pensacola, Escambia County, Florida, this 29th day of November, 2010.

Case: 2010 AP 000030



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Dkt: OPINION Pg#:

Nishalant Keecha

CIRCUIT JUDGE

Conformed copies to:

- ✓ - Assistant Public Defender, Division IV, 190 Governmental Center, Pensacola, FL 32502
- ✓ - Office of State Attorney, Division IV, 190 Governmental Center, Pensacola, FL 32502
- ✓ - Hon. Thomas Johnson, County Court Judge, Division IV, 190 Governmental Center, Pensacola, FL 32502

(Signature)