

RED ALERT

FOR IMMEDIATE ATTENTION



Members,

Please see the statement below from FPCA General Counsel David Marsey.

On September 10, 2025, the First District Court of Appeal struck down Florida's ban on the open carry of firearms, finding Section 790.053, Florida Statutes, unconstitutional. Today, the Office of the Attorney General published a Guidance Memorandum to address the many questions arising from this recent decision. Although a previous Florida Supreme Court case held that Florida's ban on open carry was constitutional, the recent *McDaniels* case was the first to consider the constitutionality of Florida's open carry ban under intervening Supreme Court case law which clarified the rights protected by the Second Amendment. See *New York State Rifle & Pistol Assoc., Inc. v. Bruen*, 597 U.S. 1 (2022); *U.S. v. Rahimi*, 602 U.S. 680 (2024). Because no other appellate court has considered the constitutionality of the ban under the most recent Supreme Court authority, *McDaniels'* finding is now the law of the state and the First District's opinion is binding *on all Florida trial courts*. This will remain the case unless or until another Florida appellate court or Florida Supreme Court reaches a contrary opinion. Additionally, nothing in the *McDaniels* case prohibits the enforcement of Florida's reckless display of a firearm statute, the ban on possession of firearms by convicted felons, or the enforcement of the ban on the carrying of firearms in otherwise prohibited places, whether open or concealed. See § 790.06(12), Fla. Stat. The FPCA's preliminary guidance stands.

Because the ban on open carry is currently unconstitutional, Florida's law enforcement officers should immediately discontinue enforcement of the statute and Florida's Chiefs and law enforcement executives should take immediate action to prevent arrests for a violation of this statute. Arrests for open carrying of firearms in light of *McDaniels* most likely exposes officers and/or agencies to civil liability.

David Marsey, FPCA General Counsel

Thank you,

Cookie

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