

IN THE CIRCUIT COURT OF THE  
SEVENTH JUDICIAL CIRCUIT, IN AND  
FOR FLAGLER COUNTY, FLORIDA

CASE NO.: 2020 CF 667

**STATE OF FLORIDA**

vs.

**TRAVIS S. SMITH,**

Defendant.

**DEFENDANT'S MOTION FOR NEW TRIAL**

COMES NOW, the Defendant, Travis S. Smith, and pursuant to Florida Rules of Criminal Procedure 3.590 and 3.600, moves for a new trial regarding the charge of Battery in this case, and in support of this Motion would states as follows:

1. The Defendant was charged, by way of an Amended Information, with one count of Battery, one count of Contributing to the Dependency of a Minor, and one count of Burglary of an Occupied Conveyance. A jury trial was held in this case that began on May 23, 2022. The Defendant was acquitted by the Court for the count/charge of Contributing to the Dependency of a Minor upon a renewed motion for judgment of acquittal. On May 25, 2022, the jury found the Defendant Not Guilty of the one count/charge of Burglary of an Occupied Conveyance, and the Defendant was found guilty by the jury of the one count/charge of Battery, a First Degree Misdemeanor. This Motion addresses the guilty verdict for the Battery count/charge. This Motion is timely filed.

2. The Defendant is entitled to a new trial in this case on the count/charge of Battery for the following grounds/reasons:

i. The guilty verdict for Battery is contrary to the weight of the evidence at trial. The evidence presented by the State of Florida does not support the verdict, and the State of Florida did not meet their burden of proving the count/charge of Battery beyond and to the exclusion of every reasonable doubt. The evidence presented at trial by the Defendant

supported that the Defendant was acting in self-defense of himself and the other passengers in the vehicle when he touched the Lyft Driver. The competent, substantial evidence showed that the Defendant was justified in his use of non-deadly force. The Lyft Driver and the State's evidence was inconsistent as to this count/charge.

WHEREFORE, the Defendant requests that this Motion be granted, a new trial be granted for the Defendant on the count/charge of Battery, and for the Defendant's release from custody pending a new trial on the count/charge of Battery.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by:  E-Mail: Eserviceflagler@sao7.org  Mail: The Office of the State Attorney, 1769 E. Moody Blvd., Building 1, Bunnell, FL 32110  Fax  Hand Delivered to: Office of the State Attorney, this 31st day of May, 2022.

**RICE LAW FIRM, P.A.**

*/s/ Philip J. Bonamo*

---

**PHILIP J. BONAMO, ESQUIRE**

Florida Bar #0054526

222 Seabreeze Blvd.

Daytona Beach, Florida 32118

Telephone (386) 257-1222

Facsimile (386)258-9694

E-Mail: PBonamo@RiceLawFlorida.com

Secondary: ADrexler@RiceLawFlorida.com

Attorney for Defendant