IN THE DISTRICT COURT OF APPEAL OF FLORIDA
THIRD DISTRICT

CASE NO.: 3D2025-0766

MATIAS SERGIO QUIROGA,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

On Appeal from the County Court of the Eleventh Judicial Circuit
In and For Miami-Dade County, Florida
Lower Tribunal Case No.: M24-22790

APPELLANT'S INITIAL BRIEF

Respectfully submitted,

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Filing Date: August 11, 2025

SUMMARY OF ARGUMENT

The conviction for Disorderly Intoxication must be reversed because the State failed to present competent, substantial evidence to prove the statutory elements of section 856.011, Florida Statutes. The State's own highest-ranking security witness testified that Appellant never threatened anyone, posed no danger to guests or staff, and that casino operations continued without interruption. Officer Lopez's testimony was materially impeached by his own sworn arrest affidavit, which omitted the alleged profanity central to his narrative.

The jury's acquittal on Resisting Without Violence — arising from the exact same facts — makes the guilty verdict for Disorderly Intoxication legally inconsistent. The incident involved only a verbal dispute over a drink policy, which is constitutionally protected speech. The introduction of allegations related to the acquitted charge created spillover prejudice that tainted the verdict.

ARGUMENT

I. THE STATE FAILED TO PRESENT COMPETENT, SUBSTANTIAL EVIDENCE OF ENDANGERMENT OR PUBLIC DISTURBANCE UNDER § 856.011

To sustain a conviction for Disorderly Intoxication, the State must prove beyond a reasonable doubt that the defendant was intoxicated and either (1) endangered the safety of another person or property, or (2) caused a public disturbance while intoxicated in a public place. See *Saunders v. State*, 319 So. 2d 118 (Fla. 1975). Mere loudness or profanity is insufficient.

Here, Security Captain April Walker testified she never had any concerns for her own safety:

> **Q: "Throughout your interactions with the Defendant did you ever have any concerns for your own safety?"**
>
> **A: "No." (Tr. p. 12, l. 2–4)**

She also had no concerns for the safety of guests or patrons:

> **Q: "Did you have any concerns for the safety of the hotel guests or casino patrons?"**
>
> **A: "No." (Tr. p. 13, l. 1–4)**

Walker confirmed that casino operations remained open and unaffected during the entire incident (Tr. pp. 14, 19)

The sworn arrest affidavit contains no language describing threats, endangerment, or any actual disturbance to operations (Ex. A-3, p. 1)

Without proof of actual danger or a public disturbance, the conviction cannot stand.

II. THE VERDICT IS LEGALLY INCONSISTENT WITH THE JURY'S ACQUITTAL ON RESISTING WITHOUT VIOLENCE

The resisting charge and the disorderly intoxication charge were based on the same operative facts: Appellant's refusal to leave, alleged arm movement, and verbal exchanges with Officer Lopez (Tr. pp. 47–50)

As in *Redondo v. State*, 403 So. 2d 954 (Fla. 1981), verdicts on interdependent counts cannot logically coexist when the acquittal on one necessarily negates an essential element of the other.

III. OFFICER LOPEZ'S TESTIMONY WAS MATERIALLY IMPEACHED BY THE TRIAL RECORD

Officer Lopez testified that Appellant repeatedly said "fuck you" (Tr. p. 50, l. 5–6) His sworn arrest affidavit, however, contains no such allegation (Ex. A-3, p. 1)

Lopez admitted that Appellant never raised a hand toward him:

Q: "Mr. Quiroga never raised a hand at you?"

A: “No.” (Tr. p. 47, l. 6–10)

Lopez also admitted that Appellant never attempted to flee:

> **Q: “He never ran away from you?”**
>
> **A: “No.” (Tr. p. 47, l. 12–15)**

These contradictions and omissions go to the heart of the State’s case and undermine any claim of endangerment or disturbance.

IV. THE INCIDENT INVOLVED ONLY CONSTITUTIONALLY PROTECTED SPEECH

The evidence, even viewed in the light most favorable to the State, shows that the interaction stemmed from a verbal disagreement over a casino drink policy (Tr. p. 11, l. 1–14) There was no evidence of physical aggression, threats, or conduct that would fall outside First Amendment protections. Under *Saunders*, such speech cannot form the basis of a disorderly intoxication conviction.

V. SPILLOVER PREJUDICE FROM THE ACQUITTED RESISTING CHARGE TAINTED THE VERDICT

The jury was presented with testimony and argument concerning alleged resistance and injury to Officer Lopez, claims it rejected by acquitting on Count II (Tr. p. 203, l. 3–6) These allegations were inextricably intertwined with the disorderly intoxication charge and likely influenced the jury's deliberations despite being unsupported. See *McDuffie v. State*, 970 So. 2d 312 (Fla. 2007).

CONCLUSION

For the reasons stated herein, the conviction for Disorderly Intoxication under section 856.011, Florida Statutes, must be reversed. The State failed to present competent, substantial evidence of either endangerment to persons or property or of a public disturbance beyond protected speech. The jury's acquittal on Resisting Without Violence, based on the same operative facts, renders the verdict legally inconsistent. Key prosecution testimony was materially impeached by the trial record, and the incident involved only constitutionally protected speech.

Appellant respectfully requests that this Court reverse the conviction and remand with instructions to enter a judgment of acquittal.

Respectfully submitted,

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Date: August 11, 2025

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via e-service and/or U.S. Mail on this date, August 11, 2025, to:

- **Clerk of Court – Third District Court of Appeal, 2001 S.W. 117th Avenue, Miami, FL 33175**

- **Office of the Attorney General – Criminal Appeals Division, One SE Third Avenue, Suite 900, Miami, FL 33131**

- **Miami-Dade State Attorney's Office, 1350 NW 12th Avenue, Miami, FL 33136**