

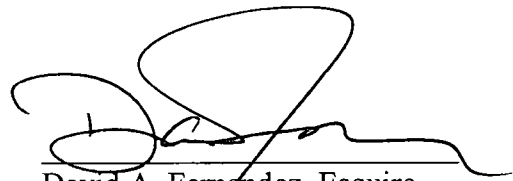
before her hearing. Davis now argues that the holding in Cothran v. Brown should be applied as the sustaining basis for her dismissal, and if it were applied, the result would necessarily support the City's argument as to the validity of the second affidavit and the improper dismissal of the charge.

CONCLUSION

For the reasons stated above, and in addition to the grounds argued in the *Final Brief of Appellant*, this Court should reverse the rulings of the lower courts and remand for trial. The "competing affidavit" rule was not properly raised or considered by either of the lower courts and is inapplicable in the criminal context. The second affidavit submitted by the City was clarifying affidavit, not contradictory, and not offered for the sole purpose of creating a sham. Finally, if applied, the holding in Cothran v. Brown supports all aspects of the City's position concerning the correct second affidavit, and would require reversal based on the incomplete and improper analysis and conclusions conducted by the lower courts.

Respectfully submitted,

September 19, 2012



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OCT 30 2012

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