

signed the waiver “by [his] own volition,” and whether he was “doing this voluntarily, of [his] own free will,” to which he responded affirmatively.).

The present case is novel in that this Court has not decided a case where the trial court made a mere passing reference to a jury waiver. Prior to holding the bench trial, the only reference to any jury waiver was mentioned in the following colloquy:

The Court: [t]his matter is set for trial today. Mr. Sanders, it is my understanding that you have waived your right to a jury trial and would like to have the court decide this case.

Mr. Sanders: Yes.

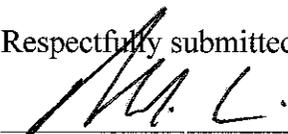
The Court: We will now begin with opening statements.

Transcript, p. 3.

This is an important issue in that trial courts must know what is minimally required in order to satisfy the “in open court” requirement. This Court’s precedent has shown that trial courts must at least inquire as to whether the waiver was signed voluntarily. Such an inquiry is blatantly absent from the present case. These issues raise important constitutional questions which need clarified regarding what a trial court must minimally do to satisfy the “in open court” requirement.

Therefore, Appellant respectfully requests this Court reconsider its decision in denying Appellant’s discretionary appeal.

Respectfully submitted,



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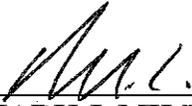
Counsel for Appellant

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon Mr. John

Cousins, Assistant Prosecuting Attorney and counsel for Appellee, via hand-delivery, this

27 day of December, 2010.



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