

IN THE MAGISTRATES COURT OF QUEENSLAND

BETWEEN

Stephen Wayne WILLIAMS,
Senior Sergeant of Police and Superintendent of Traffic Complainant

and

Rick Allan EAST Defendant

DEFENDANT'S OUTLINE OF SUBMISSIONS

SUMMARY OF THE FACTS

1. The ticketing officer witnessed the defendant driving his car in the parking lot of Sunnybank Market Square whilst Defendant and passengers were not wearing seatbelts.
2. On questioning the Defendant stated he was not wearing a seatbelt, and has not used a seatbelt whilst driving for the past seven years, as a manifestation of his knowledge and religion.
3. The Defendant lives a consecrated life in accordance with the vow of the Nazirene, as a disciple and shepherd of TheWay.
4. The Defendant raises his children, the passengers in the car, to also live in a lifestyle and mindset that manifests their highest expression of self.
5. The Defendant explained to the officers the relevance of not wearing a seatbelt to the manifesting his thoughts, conscience and religion, a summary of which is contained in these submissions and of which much further detail can be read at <http://ebionite.com/seatbelt.htm>.
6. The Officers asked whether a claim to freedom of religion should therefore serve as an excuse to a murderer to not be arrested if he states that murder is a part of his religion, later admitting that perhaps is an oversimplification of the issues.
7. Australia is a party to the treaty *International Covenant on Civil and Political Rights* ('*ICCPR*'), defining and protecting the right to freedom of thought, conscience and religion.
8. Queensland Parliament declares explicit support for the whole of *ICCPR* in Section 3 of the *Anti-Discrimination Act 1991*.
9. The Full Federal Court affirmed in *Minister of State for Immigration and Ethnic Affairs v Ah Hin Teoh [1995]* ('*Teoh*') there is a reasonable expectation that public administrators will exercise their discretion in manner that takes into consideration Human Rights obligations Australia has committed to through International Treaties.

DEFENDANT'S SUBMISSIONS

1. The Transport Operations (Road Use Management) Act 1995 (*the Act*) forces people to live in accord with Secular Humanism and therefore creates an apparently inadvertent violation of the rights of people in Australia to freedom of thought, conscience and religion, and orders the defendant to engage in a behaviour and mindset that he knows to be ultimately self destructive.
2. The Queensland Police have and use broad common law discretion in enforcement of the Act. In this instance the officers:
 - 2.1 failed to demonstrate a understanding and respect for the importance of freedom of thought, conscience and religion, and the widely accepted limits of its application; and,
 - 2.2 hence did not adequately weigh the public interest in forcing the defendant to act in accord with a Secular Humanistic mindset and wear a seatbelt versus the serious implications such an action would have on the Defendant's quality of life, livelihood and capacity to provide for his children by indiscriminate enforcement of the Act and its resulting threat of ultimate licence suspension.
3. The Full Federal Court of Australia confirmed in its decision in *Ah Hin Teoh v Minister of Immigration and Ethnic Affairs [1994] FCA 1017 ('Teoh')* that the Australian Government's ratification of the *ICCPR* created a legitimate expectation that administrative decision-makers take into appropriate consideration Australia's International legal obligations where relevant.
4. Potential claims that there is an overriding public interest that supersedes the defendant's right to manifest his religion must prove the defendant's actions are "inimical to the peace, good order, and morals of society" and should also explain the relative increases in road casualties shown to occur as jurisdictions introduce mandatory seatbelt laws, particularly amongst pedestrians.
5. The Act, or at least sections 263-267 of the Act, are unconstitutional under the Queensland Constitution because a law that egregiously violates the human rights of the people is **FUNDAMENTALLY** in conflict with the limitations inherent in the wording granting the concession to the State to make laws for the "peace welfare and good government of the colony". Even more counterintuitive is the notion that such an Act could in any way be considered in the interests of "peace welfare and good government of the colony" when evidenced that it likely increased physical deaths and injuries since its inception.
6. In any event, the Act is in conflict with the Defendant's inalienable God given rights to freedom of thought, conscience and religion.

THE ABOVE SUBMISSIONS ARE SUPPORTED AS FOLLOWS:

SUBMISSION ONE

GOVERNMENT ENFORCED RELIGIOUS PRACTICE AND MINDSET

1. The Transport Operations (Road Use Management) Act 1995 (*the Act*) forces people of faith based religions and religions of an evolved spiritual nature to live in accord with the mindset and behaviour of Secular Humanism, a mindset that denies the truth expressed in the Bible and in this quote from <http://ebionite.com/seatbelt.htm>:

"There is no such thing as an accident -- only events that have a pre-existing cause that man chooses to remain blind to. Accidents can only be avoided by developing the innate resources of the mind that is able to sense and perceive the underlying causes in what is known as the (Ethereic) Field. To those who are attempting to develop those intuitive spheres of mind, the wearing of a seatbelt is a surrender to ignorance and the Paradigm of the Atheist mindset."

2. In inhibiting the full and balanced development of mind that can only take place in an environment that embraces the diversity of the human condition by protecting individual rights and freedoms, the Act causes genuine harm to the community and its members.
3. The Act requires the defendant to adhere to an anti-Biblical mindset and Atheistically based quasi-religious philosophy proven counterfeit by modern science and requires the denial of fundamental religious spiritual knowledge and rejection of the Will of God.

WHAT IS RELIGIOUS FREEDOM?

4. Black's Law Dictionary defines Religious Freedom as: "... embraces not only the right to worship GOD according to the dictates of one's conscience, but also the right to do, or forbear to do, any act, for conscience sake, the doing or forbearing of which is not inimical to the peace, good order, and morals of society."
5. Article 18 of the International Covenant on Civil and Political Rights ('ICCPR'), which Australia is a party to and Queensland Parliament has stated explicit support for, reads:

“Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.”
6. The minimum standards set forth to be applicable in times of a declared state of emergency under United Nations Human Rights Committee General Comment 22, reads:

“The right to manifest a religion or belief may be limited but only if the state can show that this was both ‘prescribed by law’ and ‘necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others’ (emphasis added).”
7. The defendant’s actions are reasonable free expressions of religion unless the court determines that driving a motor vehicle while occupants forbear from wearing a seatbelt is “inimical to the peace, good order, and morals of society” or, by the *ICCPR* definition, ‘necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others’.
8. The *Convention on the Rights of the Child* ('CROC') Article 14 provides:
 1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
 2. States Parties shall respect the rights and duties of the parents ... to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
 3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.
9. While CROC is not a treaty like the ICCPR is and therefore cannot be enforced in international courts, it should be considered persuasive as it is a mere expansion of ICCPR Article 18 Paragraph 4.
10. Any man of strong moral convictions will not engage in an activity that he knows to be harmful to the body, mind or spirit of himself or others, particularly those put in his charge such as his children, even if ordered to do so. The importance of freedom of thought, conscience and religion is to prevent circumstances where an authority, recognised by the people, over steps its bounds and orders an individual or group to conduct themselves in manner that that individual or group knows to be harmful to the body, mind or spirit of themselves or others. A failure to

adhere to the recognition of freedom of religion in matters of an individual's private life will at best create a stand-off between upstanding moral individuals and the government, either of which may well be less than fully enlightened. Freedom of religion does not create chaos, as some suggest, but requires an effective and empowered judicial arm that can assess situations and ensure that a proper balance between individual and public interests is maintained.

11. It would be against all reason for the defendant to:

1. work to create an environment for his children to expand their minds beyond the limitations of the organic body;
2. teach his children to think independently and develop all spheres of mind, including the intuitive, that are beyond the capacity of most people in our present culture; and,
3. then require them to live in accordance with the dictates of Secular Humanism that inhibits that development by demanding they wear a seatbelt.

QUEENSLAND PARLIAMENT'S SUPPORT OF ICCPR

12. In light of the Queensland Parliament declaring explicit support for the whole of *ICCPR* in Section 3 of the *Anti-Discrimination Act 1991*, it can only be assumed, in absence of any evidence to the contrary that the violations in the Act of the universal right of freedom of religion, confirmed in *ICCPR*, were unseen by Parliament and were therefore unintended.

13. Indeed it seems the Act would, if it were intended to override the human rights in Article 18 without justification, constitute an act of religious discrimination under Section 101 of Queensland's *Anti-Discrimination Act 1991* by all State officials that have supported the creation and continuance of the Act.

SUBMISSION TWO

QUEENSLAND POLICE DISCRETION

1. The Queensland Police have and use broad common law discretion over when to enforce various sections of the Act, a discretion in part there to protect the public from unintended consequences of legislation and an overreach of Government power.
2. Traffic Operations Advisory Unit advises, "There is no definitive policy in relation to discretion" when asked for any policies in relation to exercising their discretion. See Annexure A for the complete response.
3. In this instance, comments by one of the Officers asking whether a claim to religious freedom should therefore serve to prevent a suspected murderer from being arrested if they make a claim that their religion required them to do it, suggests the officer has a trivial view of religion and fundamental lack of understanding of the well established limits to which freedom of thought, conscience and religion apply. Murder is easily discernable as having significantly greater impact on the rights and safety of others than a private individual's choice concerning wearing a seatbelt.
4. The Police therefore did not take into account that their discretionary enforcement of these sections of the Act, for no apparent public benefit, requires the defendant to choose between living in accord with the lifestyle and mindset of an Atheist, the tenets of which the defendant completely rejects, or face the possibility of future loss of licence, impaired capacity to work and inability to care for children to the same standard driving permits. This scenario would almost certainly require the defendant to also leave his employment and move to a jurisdiction that has stronger protection of religious freedom, dividing his children from their mother. It is important that our public administrators from all arms of government recognise the great personal impact that decisions to deny an individual of their human rights can have in what might seem like a trivial matter to those administrators.

SUBMISSION THREE

LEGITIMATE EXPECTATION DECISIONS CONSIDER INTERNATIONAL OBLIGATIONS

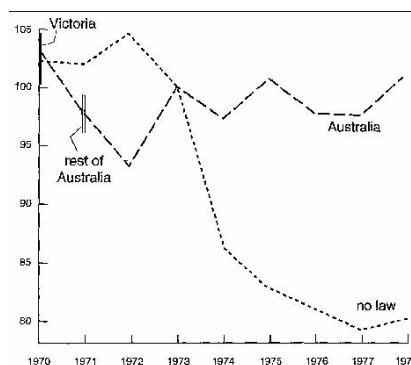
1. The Full Federal Court of Australia confirmed in its decision in *Ah Hin Teoh v Minister of Immigration and Ethnic Affairs [1994] FCA 1017* ('Teoh') that the Australian Government's ratification of the *ICCPR* created a legitimate expectation that administrative decision-makers take into account Australia's International obligations where relevant. The High Court subsequently provided further clarification on the legitimate expectation doctrine in [Minister of State for Immigration and Ethnic Affairs v Ah Hin Teoh \(1994-1995\) 183 CLR 273](#).
2. In *Teoh* the court considered whether government officials determining an application for permanent residency gave enough consideration to the rights of the children when denying Ah Hin Teoh's application for permanent residency after he was convicted for six counts of importing heroin and three counts of possession of heroin.
3. Given the relative risk posed to the public between allowing a heroin importer permanent residence versus allowing an individual to choose for themselves whether to wear a seatbelt, it seems nonsensical to override the defendant's freedom of religion out of a perceived public interest if the guidance provided in these cases is accepted.

SUBMISSION FOUR

RESPONSES TO COMMON ASSERTIONS OF OVERRIDING PUBLIC INTEREST

1. The ticketing officer posed the argument that the public interest served by the seatbelt law is to lessen the risk that someone that crashes into you will feel sad should you die because of a combination of their carelessness driving and you not being belted in.
2. While it is not possible to show what would have occurred if mandatory seatbelt legislation came in, statistical analysis of road related casualties shows relative increases coinciding with mandatory seatbelt legislation in most jurisdictions implementing mandatory seatbelt laws versus comparable no-law jurisdictions. John Adams, *SAE Transactions, The Efficacy of Seat Belt Legislation 1982*:

"Figure 15 compares the Australian road death index to the non-law index. The law came into effect in the various states of Australia between December 22, 1970 and January 1, 1972. Between 1970 and 1972 the Australian index dropped 10 points while that of the non-law countries increased by two. But in 1973 the Australian index increased seven points while that of the non-law countries dropped 4.5. Between 1973 and 1978 the Australian index remained virtually unchanged while that of the non-law countries dropped 20 points. A report of the Australian House of Representatives Standing Committee on Road Safety noted that while car occupant deaths had decreased in the early 1970s non-occupant deaths had increased. It observed 'This strongly confirms the contention that vehicle occupants were being affected by a measure not operative so far as other road users are concerned.' (29) Belt usage estimates range from 19 per cent to 37 per cent before the law, and 69 per cent to 94 per cent after the law.



3. After seeing this pattern repeatedly across jurisdictions (see Annexure C) John Adams hypothesises that “Protecting car occupants from the consequences of bad driving encourages bad driving” but as Allan Cronshaw writes at <http://ebionite.com/seatbelt.htm>:

“there is also another dimension to the findings that has not yet been considered. ... every person unknowingly and unconsciously has some access to the higher areas of mind that is not supported by the organic body. And it is these higher causal centers of mind that would be the equivalent of the Field that the Quantum Physicists have recognized as the source of all events in this realm that surrounds all matter which has been compared to a "blemish" where interacting fields collide. And as Prof. Adams has observed in his findings, wearing a seatbelt has the tendency to block the intuitive access of the drivers conscious mind to these higher areas in the causal Etheric areas of mind, with the result being an increase in pedestrian and cyclist [casualties] because the seat belt impedes the intuitive connection between the conscious and unmanifest higher conscious ... areas of mind. ... this can never be duplicated in the laboratory -- or understood from what has been described as the conventional "fossilized" thinking of a very large segment of our culture.”
4. If saving lives by intruding into private decisions about personal conduct is the objective of government, they would have a greater effect if they acted to prevent people from eating sugar, processed flour, chemicals and meat, taking unnecessary medication and living sedate lives. While the speed at which these lifestyle choices destroy lives is slower than that of a crash, the results are more sure than the affects of merely not wearing a seatbelt. Diet, smoking, medication and slothful lifestyle choices kill far more people prematurely than car ‘accidents’ yet the government respects it is the right of people to choose how they live and how they die through their lifestyle choices.
5. The above could serve as an argument for government to make our every choice in life concerning how to think and act, if only it had the competency to what is best for us. Of course it is self evident that what is best for our growth of mind is to have and exercise our own conscientiousness in making decisions so as to best take responsibility for and learn from those decisions. This starts with standing up for what is right at every opportunity we are given.
6. If Queensland Government, police and courts cannot consider and accept that the individual has the right to do or not do an action in accordance with his thought, conscience and religion as benign to public safety as choosing whether to wear a seatbelt, then it is difficult to conceive of any freedom of religion within the state that would be protected from explicit or inadvertent violation.

SUBMISSION SIX

RECOGNITION OF NATURAL LAW AND INHERENT GOD GIVEN RIGHTS

1. Notwithstanding all the above, regardless of any parliamentary Acts, the Constitution or precedents established in the courts of man, we each have unalienable God given rights to self determination, including freedom of religion.
2. The Founding Fathers of the United States, being Deists, recognised these unalienable God given rights when they drafted the American Bill of Rights into the U.S. Constitution, however those rights were not dependent upon that codification. The codification only serves to help protect those rights from what is the natural progression of all societies. *Walter Williams in a commentary entitled [America's Move Towards Tyranny](#) wisely wrote: Supreme Court Justice Louis Brandeis warned, "The greatest dangers to liberty lurk in the insidious encroachment by men of zeal, well meaning but without understanding." The freedom of individuals from compulsion or coercion never was, and is not now, the normal state of human affairs. The normal state for the ordinary person is tyranny, arbitrary control and abuse mainly by their own government. While imperfect in its execution, the Founders of our nation sought to make an exception to this ugly part of mankind's history. Unfortunately, at the urging of the American people, we are unwittingly in the process of returning to mankind's normal state of affairs. While Australia is also "unwittingly in the process of returning to mankind's normal state of affairs", if the courts fail to recognise our unalienable God given rights our return will be quicker and even more assured.*

3. While positivism dominates the day to day administration of law in Australia today and can be argued to be more objective and therefore more fair, natural law is implicitly recognised as sitting over the Crown and all law posited from it. The Westminster system of government is predicated upon the belief that Sovereignty is given to the anointed King or Queen directly by God and in recognition of this, during the Coronation Oath the Queen is asked, “*Will you to the utmost of your power maintain the Laws of God ...*”. Australian officials therefore cannot argue that there is no such thing as the ‘Laws of God’ or that those Laws cannot be acted upon, at least not without undermining both the oath of Crown they are sworn to serve and the entire premise by which the Crown exercises its power. Indeed, other than a belief in divine providence in accordance with Rome’s divine intercessor doctrine, the only other justification for believing sovereignty rests with a regal is the notion that the Queen is a conqueror and everyone else is a submitted subject, otherwise we are simply under the arbitrary control Walter Williams suggests is man’s normal state of affairs in the above quote. Positivism is commonly asserted by secular humanists as creating a less subjective legal system from the perspective of the courts, taking away some of their discretion, but in fact it is more subjective, manifesting this subjectivity in the arbitrary control exercised by law makers detached from the courts and the reality of how their laws affects individuals. Natural law is and should remain the mainstay of Australian law.
4. The higher reality is that each of us are created sovereign with inalienable God given rights and can rightly delegate to the institutions we create only a portion of such rights and power that we possess as individuals. Even rational atheists recognise that logically we cannot give to another that which we do not ourselves possess. Therefore the only laws of man that hold any validity are those that channel the power and rights that we each have naturally as individuals. For example, we each have the right to protect ourselves and others, and therefore we can create a police force with the power to help protect us as well. We do not each have the right to dictate the mindset and lifestyle that others live, or even to curb it unless it poses a risk to the safety or freedom of the public. All rational people whether Atheist or genuinely spiritual will therefore recognise that we cannot legitimately create a government, regal, church, school or any other institution that has this power. In the final accounting for what each of us have done in our lives, actions taken to exercise the illegitimate powers of government over the natural rights of man are seen as the exercise of tyranny, and serve to create the karma under which that Soul’s future incarnations will live and grow, and the karma of those that are complacent to that tyranny.
5. The High Court in *Teoh* affirmed that our public administrators have an obligation to give due consideration to Australia’s international obligations when exercising their discretions in the enforcement of the laws. Article 18 of the ICCPR has its roots in the recognition of the above truths and without giving full and well thought out consideration of this higher perspective it is not possible for government officers to meet the obligations they have to the individuals they serve. In this case there is a manifest failure on the part of the ticketing officers and the police prosecution to give considered thought to the above and the defendant should therefore not be found guilty, the connotation of which is, according to Black’s Law Dictionary, ‘evil’, ‘wrongdoing’ or ‘culpable’, a slight hardly appropriate for someone merely striving to live in the highest expression of Truth and Light while causing no harm to others.
7. If Queensland Police had given these matters full consideration the only conceivable rational decision would have been to do as North Carolina prosecutors did in December 2011 in two virtually identical cases involving Nazirenes that were due to be heard before a jury in the North Carolina Supreme court. In *North Carolina vs Allan Cronshaw (IIifs4901)* and *North Carolina vs Emmanuel Pohoreski (IIifs4900)* the prosecution dismissed the charges prior to the jury trial. Copies of the dismissals are in Annexures B and C.

DATED this **28th** day of **December 2011**

Rick East

Defendant

ANNEXURES

ANNEXURE A – EMAIL TRAFFIC OPERATIONS CONCERNING DISCRETION

From: Cramp.Paul@police.qld.gov.au

Date: 16 May 2011 10:09AM

Subject: FW: Email Enquiry – Rick EAST – OSCR 11/3943

Mr EAST,

Thank you for your email of 28 April 2011 regarding a Road Rules/Traffic Matter. A copy was forwarded to the State Traffic Support Branch for consideration and response.

It is not the practice of the Queensland Police Service to issue \$0 Penalty Infringement Notices. The penalties for not wearing a seatbelt in Queensland exist in an attempt to reduce the loss of life and injury on our roads.

There is no definitive policy in relation to discretion, however, the use of discretion for life endangering traffic offences such as failing to wear a seatbelt is not encouraged.

I trust this information is of assistance.

Yours sincerely

Paul CRAMP
Senior Constable 7354
TRAFFIC OPERATIONAL ADVISORY UNIT
Queensland Police Service
Ph: (07) 3238 6666
<<mailto:Cramp.PaulR@police.qld.gov.au>>

ANNEXURE B - DISMISSAL IN NORTH CAROLINA VS ALLAN CRONSHAW

Copy

STATE OF NORTH CAROLINA		File No. <u>11ifs 4901</u>
<u>Alamance</u> County		In The General Court Of Justice <input type="checkbox"/> District <input checked="" type="checkbox"/> Superior Court Division
STATE VERSUS		DISMISSAL NOTICE OF REINSTATEMENT
Defendant <u>Allan Cronshaw</u>		<small>G.S. 15A-302(e), -931, -932, -1009</small>
File Number	Count No.(s)	Offense(s)
<u>11ifs 4901</u>	<u>1</u>	<u>Fail to wear seat belt - driver</u>
<input checked="" type="checkbox"/> DISMISSAL NOTE: Recall all outstanding Orders For Arrest in a dismissed case. The undersigned prosecutor enters a dismissal to the above charge(s) and assigns the following reasons: <input type="checkbox"/> 1. No crime is charged. <input type="checkbox"/> 2. There is insufficient evidence to warrant prosecution for the following reasons: <input type="checkbox"/> 3. Defendant has agreed to plead guilty to the following charges: in exchange for a dismissal of the following charges: <input checked="" type="checkbox"/> 4. Other: (specify) <input type="checkbox"/> See additional information on reverse. <u>State not to proceed to jury trial on this issue (with reserves)</u> <u>Warning + ticket.</u> <small>A jury has not been impaneled nor has evidence been introduced. (If a jury has been impaneled, or if evidence has been introduced, modify this sentence accordingly.)</small>		
<input type="checkbox"/> DISMISSAL WITH LEAVE The undersigned prosecutor enters a dismissal with leave to the above charge(s) and assigns the following reasons: <input type="checkbox"/> 1. The defendant failed to appear for a criminal proceeding at which the defendant's attendance was required and the prosecutor believes that the defendant cannot readily be found. <input type="checkbox"/> 2. The defendant has been indicted and cannot readily be found to be served with an Order For Arrest. <input type="checkbox"/> 3. The defendant has entered into a deferred prosecution agreement with the prosecutor in accordance with the provisions of Article 82 of G.S. Chapter 15A. <input type="checkbox"/> 4. The defendant has been found by a court to be incapable of proceeding pursuant to Article 56 of G.S. Chapter 15A. <input type="checkbox"/> 5. Other: (specify) <input type="checkbox"/> See additional information on reverse.		
NOTE: This form must be completed and signed by the prosecutor when the dismissal occurs out of court. The better practice is for the prosecutor to complete and sign the form when the charges are orally dismissed in open court. Also, in accordance with G.S. 15A-931(a1), unless the defendant or the defendant's attorney has been otherwise notified by the prosecutor, a written dismissal of the charges against the defendant must be served in the same manner prescribed for motions under G.S. 15A-951. If the record reflects that the defendant is in custody, the written dismissal shall also be served by the prosecutor on the chief officer of the custodial facility where the defendant is in custody.		
Date	Name Of Prosecutor (Type Or Print)	Signature Of Prosecutor
<u>12-5-11</u>	<u>Paul Soderberg</u>	<u>[Signature]</u>
<input type="checkbox"/> REINSTATEMENT This case, having previously been dismissed with leave as indicated above, is now reinstated for trial.		
Date	Name Of Prosecutor (Type Or Print)	Signature Of Prosecutor

(Over)

AOC-CR-307, Rev. 4/11
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ANNEXURE C – DISMISSAL IN NORTH CAROLINA VS EMMANUEL POHORESKI

Copy

STATE OF NORTH CAROLINA		File No: <u>11ifs 4900</u>
<u>Alamance</u> County		In The General Court Of Justice <input type="checkbox"/> District <input checked="" type="checkbox"/> Superior Court Division
STATE VERSUS		DISMISSAL NOTICE OF REINSTATEMENT <small>G.S. 15A-302(e), -931, -932, -1009</small>
Defendant <u>Emmanuel Pohoreski</u>		
File Number	Count No.(s)	Offense(s)
<u>11ifs 4900</u>	<u>1</u>	<u>Fail to wear seat belt</u>
<p><input checked="" type="checkbox"/> DISMISSAL</p> <p><small>NOTE: Recall all outstanding Orders For Arrest in a dismissed case. The undersigned prosecutor enters a dismissal to the above charge(s) and assigns the following reasons:</small></p> <p><input type="checkbox"/> 1. No crime is charged.</p> <p><input type="checkbox"/> 2. There is insufficient evidence to warrant prosecution for the following reasons:</p> <p><input type="checkbox"/> 3. Defendant has agreed to plead guilty to the following charges: in exchange for a dismissal of the following charges:</p> <p><input checked="" type="checkbox"/> 4. Other: (specify) <input type="checkbox"/> See additional information on reverse. <u>state not to proceed to jury trial on this case (resumes, warning ticket).</u></p> <p><small>A jury has not been impaneled nor has evidence been introduced. (If a jury has been impaneled, or if evidence has been introduced, modify this sentence accordingly.)</small></p>		
<p><input type="checkbox"/> DISMISSAL WITH LEAVE</p> <p><small>The undersigned prosecutor enters a dismissal with leave to the above charge(s) and assigns the following reasons:</small></p> <p><input type="checkbox"/> 1. The defendant failed to appear for a criminal proceeding at which the defendant's attendance was required and the prosecutor believes that the defendant cannot readily be found.</p> <p><input type="checkbox"/> 2. The defendant has been indicted and cannot readily be found to be served with an Order For Arrest.</p> <p><input type="checkbox"/> 3. The defendant has entered into a deferred prosecution agreement with the prosecutor in accordance with the provisions of Article 82 of G.S. Chapter 15A.</p> <p><input type="checkbox"/> 4. The defendant has been found by a court to be incapable of proceeding pursuant to Article 56 of G.S. Chapter 15A.</p> <p><input type="checkbox"/> 5. Other: (specify) <input type="checkbox"/> See additional information on reverse.</p>		
<p><small>NOTE: This form must be completed and signed by the prosecutor when the dismissal occurs out of court. The better practice is for the prosecutor to complete and sign the form when the charges are orally dismissed in open court. Also, in accordance with G.S. 15A-931(a1), unless the defendant or the defendant's attorney has been otherwise notified by the prosecutor, a written dismissal of the charges against the defendant must be served in the same manner prescribed for motions under G.S. 15A-951. If the record reflects that the defendant is in custody, the written dismissal shall also be served by the prosecutor on the chief officer of the custodial facility where the defendant is in custody.</small></p>		
Date	Name Of Prosecutor (Type Or Print)	Signature Of Prosecutor
<u>12-5-11</u>	<u>Paul Soderberg</u>	<u>Paul Soderberg</u>
<p><input type="checkbox"/> REINSTATEMENT</p> <p><small>This case, having previously been dismissed with leave as indicated above, is now reinstated for trial.</small></p>		
Date	Name Of Prosecutor (Type Or Print)	Signature Of Prosecutor

(Over)

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