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A: MAINE SUPREME COURT DECISION

MAINE SUPREME
JUDICIAL COURT

Reporter of Decisions
Decision No. Mem 20-25
Docket No. Cum-19-275

STATE OF MAINE

V

PRESCOTT MCCURDY

Submitted on briefs February 26, 2020
Decided March 5, 2020

Panel: MEAD, GORMAN, JABAR, and COONERS,
JJ.

MEMORANDUM OF DECISION

Prescott McCurdy appeals from a judgment of conviction of obscuring a license plate (Class E), 29-A M.R.S. §2104(2) (2018), and operating an unregistered vehicle (Class E), 29-A M.R.S. §351(1)(B) (2018), entered in the trial court (Cumberland County, *Warren, J.*), following a jury trial. McCurdy raises a number of arguments on appeal that are underdeveloped and unsupported by legal authority. We decline to address these arguments. *See State v. Salisbury*, 2017 ME 215, ¶2, 173 A.3d 146.

As for McCurdy's principal arguments, we reject each in turn and affirm the trial court's judgment.

First, contrary to McCurdy's contention, the Maine courts have jurisdiction over him. *See State v. Pelletier*, 2015, ME 129, ¶3, 125 A.3d 354.

Second, 29-A M.R.S. §351(1)(B), requiring vehicle registration, is a constitutional exercise of Maine's police-power authority. *See State v. Cason*, 2012 ME 91, ¶3, 46 A.3d 1141.

Third, 29-A M.R.S. §2104(2) is not unconstitutionally vague, does not violate principles of equal protection as applied to McCurdy, and the subsection's title does not prejudice him. *See State v. Police Aboda*, 2010 ME 125, ¶14, 8 A.3d 719; *Bran v. State*, 424 A.2d 699, 703 (Me. 1981); 1 M.R.S. § 71(10) (2018).

Finally, the court's instructions to the jury were not in error. *See State v. Soloman*, 2015 ME 96, ¶12, 120 A.3d 661.

The entry is:

Judgment Affirmed.

Prescott McCurdy, appellant pro se

Jonathan Sahrbeck, District Attorney, Amanda Doherty, Asst. Dist. Atty., and Rosemarie Guimaraes, Stud. Atty., Cumberland County District Attorney's Office, Portland, for appellee State of Maine

B: DECISION, PRETRIAL MOTION

MOTION HEARING

Date: 4-9-19

Judge:

Frizsche

Docket N. 18-20749

FTR#: 1

Defendant: P McCurdy

Clerk:

Danielle

DA/ADA:

O'Brien

Today's Event: Motion Hearing: Pre-Trial Motion
Granted in Part

Notes: separate trial request granted; all other
requests denied

FUTURE DATES:

Trial exposure period starts 4-22-19

C: PRETRIAL MOTION

STATE OF MAINE
CUMBERLAND, SS

SUPERIOR COURT
PORTLAND
CR- 18-20749
CR 18-20748

STATE OF MAINE

v

PRETRIAL MOTION

PRESCOTT MCCURDY

NOW COMES PRESCOTT McCURDY, and
moves as follows:

1. In respect to failure to display plates charge, the charge is unconstitutionally vague as is the statute, to wit 29-A MRSA §452, 4, and denies rights reserved to him under the 9th, 10th, and violates 14th Amendment Due Process of law and abridges his rights and privileges as a Citizen of the United States under the 14th Amendment. this being the case, the Accused also challenges the probable cause and legality of the arrest and seizure and impoundment of his vehicle under the 4th and 14th Amendments US. Const'n.
2. In respect to failure to register charge, 29-A MRSA §351, the charge and the statue, to wit 29-A MRSA §351, violates the rights reserved to him under the 9th, 10th Amendments, and Due Process of law under the 14th Amendment and abridges his rights as a citizen of the U>S.

under the 14th Amendment. This being the case, the Accused also challenges the legality of the probable cause to arrest, seizure and impoundment of his vehicle under the 4th and 14th Amendments US. Const'n.

3. As to the VCR charge, this hinges on finding the other two charges are crimes and conviction of them. The Accused asks for a bifurcated trial and accepts that upon final conviction, if any, of the the other charges he will be in violation of condition of release.
4. Motion to join charges in Violations Bureau, Citation 3061412 violation of 29-A 1768-7 and 29-A MRSA-452, in respect to 29-A Section 452, it appears the charges are divided into civil and criminal offense which is so uncertain as to be unconstitutionally vague and violate double jeopardy provisions of the Double Jeopardy Clause, U.S. Const'n 5th and 14th Amendments.
5. Motion to return his property, namely motor vehicle that was seized, under M.R.Crim. P. 41, 4th and 14th Amendments for reason of unlawful seizure.

Given the above stated claims; the court lacks subject matter jurisdiction.

3/21/19

S

Prescott McCurdy

D: MOTION IN LIMINE

STATE OF MAINE
CUMBERLAND ss

SUPERIOR COURT
PORTLAND
CUM CD CR 2018-20749

STATE OF MAINE

MOTION IN LIMINE RE
FALSE IDENTIFICATION
CHARGE

v

PRESCOTT MCCURDY

The title of the statutory charge tells the jury the Defendant has done something "False". But the charge is a strict liability charge. "False" implies a state of mind. The charge of violation of 29-A M.R.S.A. § 2404, 2, therefore must require intent.

The act is also over-broad on it's face. It does not require "operation". For all the statute cares, the vehicle could be in the barn. The charge applies whether a vehicle is operated or remains on a public way or not. Also the charge is not limited to the driver. The charge and statute are painfully vague. It should therefore be dismissed.

Alternatively, if the statute can be saved, the *actus reus* must be in context of intent. Cf 17-A M.R.S.A. § 354, 4-A. See *Elonis v United States*, 135 U.S. 2001 (2015); *Morisette v United States* 342 US. 346 (1952). Should the charge not be dismissed, an instruction on intent and consistent references during trial should be required at the least.

date: June 10, 2019

Respectfully submitted,

VI

E: MOTION FOR ARREST OF JUDGMENT

Superior Court
Cumberland County

Docket # CR 18-20749

STATE

MOTION FOR ARREST OF
JUDGMENT
(M.R.C.P. Rule 34)

v.

PRESCOTT MCCURDY

i; Prescott McCurdy; defendant; request an Arrest of Judgment for the reason that the court lacked jurisdiction.

{“It is elementary that the jurisdiction of the court over subject matter of the action is the most critical aspect of the court's authority to act. Without it the court lacks any power to proceed; therefore a defense based upon this lack cannot be waived and may be asserted at any time.” [cf. *Matter of Green*, 313 S.E. 2nd 193 (N.C. App. 1984)]; “Subject matter jurisdiction is a power that exists by operation of law only and cannot be conferred upon any court by consent or waiver.” [cf. *Am. jur.* 2 Ed. , Judgments §22]; “In order for a judgment to be valid and enforceable, the court which renders it must have jurisdiction of the parties as well as jurisdiction of subject matter. It is essential

to the validity of a judgment that the court have both subject matter and personal jurisdiction." [cf. *Am. Jur.* 2Ed., Judgments §12}]

Reasons for 'lack of jurisdiction':

1) There was no 'Injury in Fact'.

Questions to the witness proved that no person was injured, and no person was in danger of being injured. With no Injury in Fact, the State had no Standing and the court lacked jurisdiction to try the case.

{“As we have explained in our prior opinions, the injury-in-fact requirement requires a plaintiff to allege an injury that is both "concrete and particularized." [cf. *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U.S. 167, 180-181 (2000)]; “One of the essential elements of a good cause of action whether based on an alleged breach of contract or on a tortious act, is a consequential injury or damage ... in the absence of injury or damage, he or she has no cause of action and no right of action.” [cf. *Am. Jur.* 2d, Cause of Action § 48]; 'An action is not given to one who is not injured.' (Maxim of Law)}

2) The statute on registration; M.R.S title 29-A, purports to be a 'crime'. Converting a right/liberty into a crime; and demanding money in order to exercise that right/liberty; is a crime in itself.

{**crime:** offenses against the laws made to preserve the public's rights; such as murder, robbery, theft, arson, moral wrong. (Webster's 1828); The claim and exercise of a Constitution right cannot be converted into a crime"... "a denial of them would be a denial of due process of law". [cf. Warnock v. Pecos County, Texas., 88 F3d 341 (5th Cir. 1996)]}

3) This statute on registration, M.R.S. Title 29-A, abridges the people's right to personal liberty.

{**Personal liberty** largely consists of the right of locomotion, to go where and when one pleases, only so far restrained as the rights of others may make it necessary for the welfare of all other citizens. The right of a citizen to travel upon the public highways and to transport his property thereon, by horse-drawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but a common right which he has under his right to life, liberty, and the pursuit of happiness. Under this constitutional guaranty one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing another's rights, he will be protected, not only in his person, but in his safe conduct." [cf. II Am. Jur. (1st) Constitutional Law, §329, p.1135]}

4) The stated statute constitutes a restriction, has no relation to the safety of the public, and is an arbitrary extension of the police power of the State. Thus the said statute is unconstitutional.

{“The state's police power does not justify an interference with constitutional rights that is entirely out of proportion to any public benefit.” [cf. *Am. Jur.* 2d 16A, p.284]; “State Police Power extends only to immediate threats to public safety, health, welfare, etc.,” [cf. *Michigan v. Duke* 266 US, 476 Led. At 449]}. {If a criminal statute is unconstitutional, the court lacks subject-matter jurisdiction and can not proceed to try the case.” 22 C.J.S. “Criminal Law”, §157, p. 189; [cf. *People v. Katrinak*, 185 Cal. Rptr. 869, 136 Cal.App.3d 145 (1983)]}

5) The enforcement of said statute is an arbitrary and capricious act. A direct violation of Due Process of Law.

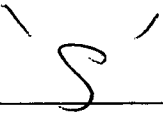
{“The requirements of reasonableness arise from due process, and an unreasonable exercise of the police power results in a deprivation without due process.” (emphasis added) [cf. *Am. Jur.* 2d 16A, p.271]; Personal liberty consists of the power of locomotion, of changing situations, of removing one's person to whatever place one's inclination may direct, without imprisonment or restraint unless by due process of law.” [cf. *Bovier's Law Dictionary*, 1914 ed.; *Black's Law Dict.*

5th ed.; *Blackstone's Commentary* 134; Hare
Constitution, Pg. 777}}

THEREFORE, the judgment in this case is to be
arrested. FURTHERMORE, whereas the court lacked
jurisdiction to try the case, there must be an acquittal.

i say here and will verify in open court; that all
herein be true; to the best of my knowledge.

DATE: 06/20/19



Prescott McCurdy

F: MOTION FOR NEW TRIAL

Superior Court
Cumberland County

Docket # CR 18-20749

STATE

v.

MOTION FOR NEW TRIAL
(M.R.C.P. Rule 33)

PRESCOTT MCCURDY

i; Prescott McCurdy; defendant, kindly request i
New Trial, under the claim that i did not receive a
'fair trial'.

i base this claim on the following facts:

1) my rights to Due Process of Law under the 5th
and 14th Amendments to the U.S. Constitution, were
violated.

{“Our Supreme Court has also held the
denial of due process is a denial of
fundamental fairness, shocking to a
universal sense of justice. *Oshrin v. Coulter*,
142 Ariz. 109, 688, P2.d 1001 (1984). See
Kinsella v. U.S. ex rel. Singleton, 361 U.S.
234, 80 S. Ct. 297, 4 L. Ed.2d 268 (1960).” [cf.
State ex rel *Romley v. Superior Court*, 172
Ariz. 232]}

a) evidence, in the form of 'documentary evidence', that i attempted to show, through having the witness read the document, was suppressed.

b) the questions i posed to the witness, questions related to testimony of 'understanding of the law', were suppressed.

c) only part of the jury instruction on 'the law' that i requested was given. The jury instruction that was given was most favorable to the State.

"The Court has held that practically all the criminal procedural guarantees of the Bill of Rights—the Fourth, Fifth, Sixth, and Eighth Amendments—are fundamental to state criminal justice systems and that the absence of one or the other particular guarantees denies a suspect or a defendant due process of law under the Fourteenth Amendment." [cf. See analysis under the Bill of Rights, "Fourteenth Amendment," *supra*]; '*An act of the court shall oppress no one.*' (Maxim of Law)

2) when a judge makes a statement such as; "viewed in the light most favorable to the State"; fairness is no longer at play, and the Integrity and Impartiality of the judiciary is lost.

The preamble to the Maine Code of Judicial Conduct reads; 'An independent, **fair**, competent, and **impartial** judiciary is indispensable to our system of justice. The United States legal system is based upon the principle that an independent, **fair**,

competent, and **impartial** judiciary, composed of men and women of **integrity**, will interpret and apply the law that governs our society, and They should aspire at all times to conduct that ensures the greatest possible public confidence in their **independence**, **integrity**, **fairness**, and competence.

Whereas *Integrity* is defined as: probity, **fairness**, honesty, uprightness, and soundness of character. and *Law* is defined as: encompasses court rules, statutes, administrative rules and regulations, **constitutional provisions**, and **decisional law**.

AND, the Judicial Branch Mission is: To administer justice by providing a safe, accessible, efficient and impartial system of dispute resolution that serves the public interest, protects individual rights and instills respect for the law.

“Under our federal system, the federal and state courts [are] equally bound to guard and protect rights secured by the Constitution,”
Ex parte Royall, 117 U.S. 241, 251 (1886)

“In the United States, Federal Constitutional issues can be litigated not only in the federal courts but also in the state courts.” [cf. *Doremus v. Board of Education of Borough of Hawthorne*, 342 U.S. 429, 72 S. Ct. 394, 96 L. Ed. 475 (1952)]

“The Judicial machinery is designed to serve those who feel sufficiently aggrieved to bring forward their claims.” [cf. *Bates v. State Bar of Arizona* 433 U.S. 350]


“If courts are to regard the Constitution, and the Constitution is superior to any ordinary act of the legislature, the Constitution, and not such ordinary act, must govern the case to which they both apply.” [cf. *Marbury v. Madison* 5 U.S. 137 (1803)]

“State courts equally and concurrently with the federal courts, bear the duty and obligation to enforce and protect every right granted and secured by the constitution of the United States.” [cf. *Am. Jur.* 2d 16A p.482]

THEREFORE, given the above stated facts, i request a New Trial.

i say here and will verify in open court; that all herein be true; to the best of my knowledge.

Date: 06/20/19



Prescott McCurdy

G: CONSTITUTIONAL PROVISIONS INVOLVED

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the contrary notwithstanding. (Article VI, Clause II, U.S. Constitution)

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; (Article VI, Clause 3, U. S. Constitution)

Unreasonable Search and Seizure. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. (4th Amendment, U.S. Constitution)

nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. (5th Amendment, U.S. Constitution)

Impartial Jury. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district

wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence. (6th Amendment, U.S. Constitution)

Enumerated Rights. The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people. (9th Amendment, U.S. Constitution)

Slavery. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. (13th Amendment, U.S. Constitution)

Right of Due Process of Law. nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. (14th Amendment; U.S. Constitution)

No State shall . . . pass any bill of Attainder, ex post facto Law or Law impairing the obligation of contracts (Article I, section 10, Clause 1, U.S. Constitution)

H: MAINE STATUTES INVOLVED

Title 29-A: MOTOR VEHICLES AND TRAFFIC Chapter 5: VEHICLE REGISTRATION Subchapter 1: REGISTRATION Article 1: GENERAL REGISTRATION REQUIREMENTS

§351. Registration required

The owner of a vehicle that is operated or remains on a public way is responsible for registering the vehicle.

1. **Failure to register.** A person who operates a vehicle that is not registered in accordance with this Title, fails to register a vehicle or permits a vehicle that is not registered to remain on a public way commits:

A. A traffic infraction for which a fine of not more than \$50 may be adjudged if the vehicle was registered and the registration has been expired for more than 30 days but less than 150 days; or

B. A Class E crime if the vehicle was not registered or the registration has been expired for 150 days or more.

1-A. **Residents required to register.** An owner of a vehicle who becomes a resident of this State shall register that vehicle in this State within 30 days of establishing residency. A person who operates or allows a vehicle that is not registered in accordance with this subsection to remain on a public way commits:

A. A traffic infraction for which a fine of not more than \$50 may be adjudged if more than 30 days but less than 150 days has elapsed since establishing residency; or

B. A Class E crime if more than 150 days have elapsed since establishing residency.

2. Operating a vehicle with an expired registration.

The owner or operator of a vehicle stopped by a law enforcement officer and having a registration that has expired within the last 30 days must be issued a warning, rather than a summons, in a form designated by the Chief of the State Police. This warning must state that:

A. Within 2 business days, the owner or operator must register the vehicle;

B. The renewed registration expires on the same month as the previous registration; and

C. The registration fee is the same as for a full year's registration.

3. Temporary permit to tow unregistered vehicle.

A law enforcement officer, an employee of a municipal police department designated by the chief, an employee of the sheriff's department designated by the sheriff, an employee of the State Police designated by the Chief of the State Police or an employee of the bureau designated by the Secretary of State may issue a permit in writing to allow:

A. An unregistered motor vehicle to be towed either by a regular service wrecker or by the use of a towbar or tow dolly; or

C. An unregistered trailer or semitrailer with a gross weight of 3,000 pounds or less to be towed, for one trip only, between the points of origin and destination.

A permit issued under this subsection is valid for no more than 3 days, including the date of issuance.

3-A. Permit to operate unregistered vehicle. Upon stopping a vehicle with a registration that has been expired for more than 30 days, a law enforcement officer may issue a permit to the owner or operator of the vehicle to operate the vehicle to the owner's residence or to an office of the bureau for the sole purpose of renewal of the registration by the owner.

§105. Enforcement

1. Authority to stop motor vehicle. If a law enforcement officer has reasonable and articulable suspicion to believe that a violation of law has taken or is taking place, that officer, if the officer is in uniform, may stop a motor vehicle for the purpose of:

- A. Arresting the operator for a criminal violation;
- B. Issuing the appropriate written process for a criminal or civil violation or a traffic infraction; or;
- C. Questioning the operator or occupants.

2. Scope of inspection. A law enforcement officer who has stopped a motor vehicle pursuant to subsection 1 may demand and inspect the driver's license, certificate of registration, permits and the identification numbers of the motor vehicle. A state police officer who is trained pursuant to the motor carrier safety rules of the motor carrier safety regulations of the United States Department of Transportation may demand and inspect the driver's record of duty status and medical examiner's certificate, if applicable.

3. Impoundment. When a motor vehicle is operated by a person not able to produce a certificate of registration, or by a person other than the person in whose name the vehicle is registered and the operator is unable to present reasonable evidence of authority to operate that vehicle, an officer may impound and hold that vehicle until that vehicle is claimed by the registered owner or until the registered owner verifies the authority of the operator. The registered owner must be notified immediately of the impoundment.

Violation. A person is guilty of a Class E crime if a law enforcement officer has probable cause to believe the person violated or is violating this Title and the person intentionally fails or refuses upon request to give the person's correct name, address or date of birth to a law enforcement officer.

§409(5) Collection of Taxes

5. Other taxes. A motor vehicle, mobile home or camp trailer may not be registered until the excise tax or personal property tax or real estate tax has been paid in accordance with Title 36, sections 551, 602, 1482 and 1484. The Secretary of State may provide municipal excise tax collectors with a standard vehicle registration form for the collection of excise tax.

§2104. Improper plates

1. **Attaching false plates.** A person commits a Class E crime if that person attaches to a vehicle a registration plate assigned to another vehicle or not currently assigned to that vehicle.

2. **False identification.** A person commits a Class E crime if that person obscures identification numbers, identification letters, the state name, validation sticker or mark distinguishing the type of plate attached to a vehicle.

5. **Strict liability.** Violation of subsection 1, 2 or 3 is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

Title 17-A Maine Criminal Code:

§352. Definitions:

1. **"Property"** means anything of value, including but not limited to:

A. Real estate and things growing thereon, affixed to or found thereon;

B. Tangible and intangible personal property

3. **"Intent to deprive"** means to have the conscious object:

A. To withhold property permanently or for so extended a period or to use under such circumstances that a substantial portion of its economic value, or the use and benefit of the property, would be lost; or

B. To restore the property only upon payment of a reward or other compensation;

§355. Theft by extortion:

1. A person is guilty of theft if the person obtains or exercises control over the property of another as a result of extortion and with intent to deprive the other person of the property.

§60. Criminal liability of an organization:

1. An organization is guilty of a crime when:

A. It omits to discharge a specific duty of affirmative performance imposed on it by law, and the omission is prohibited by this code or by a statute defining a criminal offense outside of this code; or

B. The conduct or result specified in the definition of the crime is engaged in or caused by an agent of the organization while acting within the scope of the agent's office or employment.

2. It is no defense to the criminal liability of an organization that the individual upon whose conduct the liability of the organization is based has not been prosecuted or convicted, has been convicted of a different offense, or is immune from prosecution.

Title 36: TAXATION

Part 2: PROPERTY TAXES

Chapter 111: AIRCRAFT, HOUSE TRAILERS AND MOTOR VEHICLES

§1482. Excise tax

1. Annual excise tax. An annual excise tax is imposed with respect to each registration year in the following cases.

C. For the privilege of operating a motor vehicle or camper trailer on the public ways, each motor vehicle, other than a stock race car, or each camper trailer to be so operated is subject to excise tax as

follows, except as specified in subparagraph (3), (4) or (5): a sum equal to 24 mills on each dollar of the maker's list price for the first or current year of model, 17 1/2 mills for the 2nd year, 13 1/2 mills for the 3rd year, 10 mills for the 4th year, 6 1/2 mills for the 5th year and 4 mills for the 6th and succeeding years. The minimum tax is \$5 for a motor vehicle other than a bicycle with motor attached, \$2.50 for a bicycle with motor attached, \$15 for a camper trailer other than a tent trailer and \$5 for a tent trailer. The excise tax on a stock race car is \$5.

! On new registrations of automobiles, trucks and truck tractors, the excise tax payment must be made prior to registration and is for a one-year period from the date of registration.

For motor vehicles being registered pursuant to Title 29-A, section 405, subsection 1, paragraph C, the excise tax must be prorated for the number of months in the registration.

I: BRUNSWICK POLICE REPORT

Brunswick Police Department

Page 2

Summons Report

10/05/2018

Summons #: 18155-969-AR

Call #: 18-34210

Offense (s) Class	Type
1 Obscuring Motor Vehicle Plate E 1167 29-A 2104.2 Occurred: 09/30/2018 1719 Refer to Citation#: 3092884 Suspected of Using: Not Applicable Bias Against: No Bias	Misdemeanor
2 Failure to Register Vehicle E 9142 29-A 351.1.B Occurred: 09/30/2018 1719 Refer to Citation#: 3092883 Suspected of Using: Not Applicable Bias Against: No Bias	Misdemeanor
3 Violation Conditions of Release E 9632 15 1092.1.A Occurred: 09/30/2018 1719 Refer to Citation#: 3092882	Misdemeanor

XXV

Suspected of Using: Not Applicable

Bias Against: No Bias

Vehicle Value	Year	Make	Style	Color	Reg
LANDCR hhopwr 4K	1985	Toyt	UT	BRO	

Status: Held for Safe Keeping Date:
10/05/18

Owner: McCurdy, Prescott

VIN: JT3FJ60G2F1130702

Towed to: Atlantic Coast Towing
Pleasant St

Brunswick, ME 04011

Towed By: Atlantic Coast towing

Additional Assisting Officers

Patrol Officer James Fisher

Attachments for 18155-969-AR

Bail conditions

File 2 / 27 / 28

Crim Hist

J: NOTICE TO TOWN OF BRUNSWICK

Prescott McCurdy
34 Allen Point Rd.
Harpwell, Me 04079

John Eldridge, Town Manager
85 Union St.
Brunswick, ME 04011

October 25, 2018

Notice: Claim
Willful and Malicious Injury
(this claim is federal in nature)

Dear John Eldridge,

i am writing to inform you of injuries that i have sustained do to the Willful and Malicious acts of The Town of Brunswick. In particular; Officers Curtis, Bernier, and Sgt. Yetuk. This claim is made against these men in their individual and official capacity.

On September 30, 2018 around 5:30 pm [my] property (1985 Toyota LandCruiser, FJ60 wagon) was taken; by said officers; without just compensation.

Under the Constitution of Maine and the United States Constitution; property can not be taken without compensation (Due Process of Law). This act constitutes a conversion; and if prosecuted; theft by extortion.

The actions of these men also constitutes a
Deprivation of Civil Rights (42 USC 1983, 1985); [my]
right to privacy; [my] right to be 'let alone'.

i require the return of [my] property; as well as
compensation for injuries. Please return [my] property
to 34 Allen Point Rd., Harpswell, ME 04079. i will also
be seeking a summary proceeding as well as injunctive
relief.

Please respond within 7 days of this notice.
Thank you for your attention to this matter. This
notice is sent in good faith; with no intent of
harassment.

i say here and will verify in open court; that all
herein be true; to the best of my knowledge.

Sincerely,



Prescott McCurdy

cc: Police Chief Richard Rizzo
Attorney General, Janet Mills

K: PHONE MESSAGE FROM BRUNSICK
POLICE COMMANDER

12077214300@vm.vonage.com

To:prescott_mccurdy@yahoo.com

Mon, Oct 29, 2018 at 2:12 PM

Date : Oct 29 2018 02:11:22 PM

From : Town of Brunswick
(12077214300)

To : Prescott McCurdy
(12074491446)

"Hi Mr. McCurdy this is Cmdr. Mark Walter
Brunswick Police Department 721-4314 is my number
account manager shared some paper work for you
accused us of taking your vehicle. Just wanna make
sure you understood that the reason why your vehicle
was towed is because it wasn't registered. You are free
to get that back at any time in fact the sooner you get
it back the better because you're in coring or to
charges everyday. See you just wanna go Atlantic
Coast towing pay the tow charges and you either(?)
have to have the car registered to drive it off or you
could pay to have them tow it some place or someone
else pulled out of the yard. So the two things that have
to happen this is basically pay the tow charges the
storage charges and then either pay to have it hauled
off or paid to register it and put plates on it. Any
questions again it's Cmdr. Mark Walt 721-4314 thank
you. Bye."

--- Brought to you by Vonage ---

XXIX

L: SECOND NOTICE TO BRUNSWICK

Prescott McCurdy
34 Allen Point Rd.
Harpwell, ME
04079

Mark Waltz, Commander
Brunswick Police Dept.
85 Pleasant St.
Brunswick, ME 04011

November 9, 2018

Notice: Claim

Dear Commander Waltz,

thank you for responding to my notice of claim. i respectfully restate my claims:

3 men (Officer Curtis, Officer Bernier, and Sgt. Yutek) under your command; acting for The Town of Brunswick and the State of Maine; did unlawfully seize [my] property; a 1985 Toyota LandCruiser FJ60 wagon; without Due Process of Law. A taking. A violation of Due Process of Law under the United States Constitution and the Maine Constitution.

[i] also claim these men unreasonably and unlawfully searched [my] property.

During [my] encounter with your men, a threat of irreparable harm was communicated by one.

XXX

An intentional infliction of emotional distress
(duress).

i claim the right of redress in a '*court of law*'.

i wish no one harm; only the return of [my]
property and compensation for injuries.

Injuries are; Deprivation of rights and duress.

[i] again ask that [my] property be returned to
[my] place of domicile; 34 Allen Point Rd., Harpswell,
Maine.

Thank you for your attention to this matter.

i say here and will verify in open court; that all
herein be true; to the best of my knowledge.

15'

Prescott McCurdy

cc: John Eldridge , Town manager, Brunswick, ME