

**IN THE CIRCUIT COURT FOR
LAWRENCE COUNTY, TENNESSEE**

STATE OF TENNESSEE,)	
)	
<i>Plaintiff,</i>)	Case No. 36138
)	
v.)	
)	JUDGE DAVID ALLEN
Arthur Jay Hirsch,)	
)	
<i>Defendant.</i>)	
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	/	

ORDER TO DISMISS

Be it known that this Court has subject matter and in personam jurisdiction.

This case involves a misdemeanor charge by indictment for alleged violation of TCA title 55 statutes by defendant; namely, driving on a suspended license, failure to register his truck, and having no insurance at the time of a minor accident (no fault of the defendant) on July 29, 2017.

Prior to the trial scheduled for July 19, 2022, defendant filed several mandatory judicial notices pursuant to Rule 201 and 202 which this Court has accepted.

At trial, defendant moved the Court to enter an order to dismiss per Rule 12 12(a),(2)(A)(B). Defendant argued three grounds for dismissal, i.e. (1) misapplication of charging statutes, (2) insufficient indictment on its face, and (3) fraud in the fabrication and suspension of a fictitious Tennessee driver's license.

GROUND 1. MISAPPLICATION. Defendant provided facts and law in support to show that there are two classes of users of the public highway: Class One (primary users)- those traveling freely unregulated by common law right in the ordinary course of life, business and pleasure in the usual and ordinary conveyance of the day; and Class Two (secondary users) - drivers, operators and chauffeurs engaged in regulated interstate commerce activity under taxable permissive privilege statutes (e.g. TCA Titles 55 & 65), transporting people or goods for hire on the roadways by means of a "self-propelled instrumentality of commerce" (i.e., commercial motor carrier/motor vehicle).

By affidavit, defendant rebutted the State's presumption that he was subject to the charging

statutes, since he had never applied for a driver's license in order to obtain the privilege of using the public highways as a place of business for private gain (hire). Defendant declared on oath that he was exercising his right to travel on July 29, 2017, and was not engaged in regulated commercial activity requiring a driver's license, vehicle registration, privilege tax payment and insurance. The State had no evidence to offer in counter-rebuttal.

GROUND 2. INSUFFICIENT INDICTMENT. Defendant presented numerous case law cites to show that every essential element of the terms of the charges in an indictment must be supported by specific factual details. Without the requisite facts to the essential elements on the face of the charging instrument the indictment is defeated." High court rulings judicially noticed support this standard of analysis. The indictment failed to provide any factual support for the important term "privilege," for example, and was insufficient as a matter of law.

GROUND 3. FRAUD IN FABRICATING FALSE EVIDENCE. Defendant provided evidence that the Department of Safety and Homeland Security (DHS) commissioners, fabricated a fictitious driver's license and suspended it without legislative authority. Though defendant had never applied for a driver's license, he was presumed to have had a duty to apply for one, DHS commissioner "assigned" a driver's license in defendant's name and suspended it for non-statutory reasons.

Considering the factual evidence and law presented at trial and by judicial notice

IT IS HEREBY ORDERED that this case be dismissed with prejudice on the following grounds:

- (1) That the charging permissive privilege statutes in TCA title 55 do not apply to the defendant who was using the public highways in the exercise of his constitutionally secured liberty right to travel/move/locomote on July 29, 2017, and not for private gain;
- (2) That the indictment lacks requisite facts to the essential elements to the terms of the charges;
- (3) That the fabricated fictitious driver' license assigned in defendant's name and suspended is without legislative authority.

In addition, this order

- (A) commands that this case, #36138, be expunged from court records,
- (B) commands that driver's license #133629637 bearing defendant's name be removed from any and

all state and/or federal databases immediately by DHS commissioner, and
C) commands that proof of said removal be sent to defendant's mailing address (1029 W. Gaines
St., Lawrenceburg, TN 38464), promptly.

Signed this _____ day of July, 2022.

Judge David E. Allen

Lawrence Co. Circuit Court