

34 Franklin St.
Lyons, NY 14489
April 1, 2009

Judge Nicholas Forgione
Village Justice
79 William St.
Lyons, NY 14489

Case No: 08110103.01-06
Ticket: 2E2402BSSP

Dear Judge Forgione:

I write regarding pending traffic charges with a Trial date set for April 15th at 8:30 AM. Since I'm not an attorney, I've included four subpoenas for your signature and delivery to make sure witnesses required in my defense will be at Court. I hope you'll take the time to review this letter as it provides justification for the subpoenas.

I believe I was arrested in front of my home on Monday, Nov 17th, 2008, as part of some 'sting' operation. It seemed clear the timing was meant to 'roll me' before the scheduled court date before you the following Wednesday, Nov 19th, (arrest the guy, ticket him, tow his car, and see if we can jail him).

Having parked on my property I was very surprised the car was towed out of my driveway (I filed a complaint with the State Police). A Lyon's police car was parked with his lights off only a few houses away and left after the arrest. I believe I can prove the overall direction came from a 'public servant' in the DA's office.

You may not be aware that State Trooper Sousa pulled me over at a road check point in Clyde about a month earlier. He told me: *"I'm not going to write you a big ticket for AVO, just unlicensed operation... You can leave your car parked here and walk to your party [a family get together in Clyde], by the time you get back we'll be gone and you can drive home... I'm not going to be looking for you..."*

I am not the 'usual' criminal (who's motivation is selfish behavior). I've served my country and community and always worked hard for my family. I've always tried to be honest about my actions and to treat people with respect and courtesy. I would have expected 'authorities', especially in my hometown, to respond in a similar manner.

I never would have expected public servants to go out of their way to setup an arrest and then lie about what happened and also refuse to provide witnesses.

- State Police Officer Sousa – arrested me that night and appeared to be waiting for me as I drove home from work. In response to my complaint with the State Police about having my car towed off my property – he told his supervisor, “I didn't know he lived there...” His testimony will put into question his credibility and truthfulness as a witness. He knew that was my home.
- State Police Sergeant Wing – conducted the local investigation, told me he could not “confirm or deny” the arrest was a setup. His testimony is necessary to impute the credibility of Officer Sousa, who told him that he didn't know where I lived. His testimony should also disclose the motivation and who gave the direction for the arrest.

- Lyons Police Chief Donalty – refused to respond after two personal messages were left to provide the name of the Lyons Police Officer who witnessed the arrest. Did not respond to a certified letter (attached) asking for the name of the officer. He will be able to name the officer and his testimony should also disclose the motivation and who gave the direction for the arrest
- Asst. DA David Shaw – was the DA assigned to this case for the appearance scheduled with you on Wednesday, Nov 19th. I believe he asked for the arrest to be made before the incident. His testimony should also disclose the motivation and who gave the direction for the arrest.

Entrapment: We have attorneys who are members of our Family Law reform group and I did some on-line research to better understand entrapment. New York uses the 'objective' standard of proof.

<http://www.law.fsu.edu/Journals/lawreview/frames/253/lordfram.html>

The gravamen of the objective view of entrapment is whether the police conduct "**falls below standards, to which common feelings respond, for the proper use of governmental power.**" ... When the agents' involvement in criminal activities goes beyond the mere offering of such an opportunity and when their conduct is of a kind that could induce or instigate the commission of a crime by one not ready and willing to commit it, then — **regardless of the character or propensities of the particular person induced** — I think entrapment has occurred.

I believe that if the witnesses testify truthfully the Court will find some very objectionable conduct and improper use of public power that helped cause the arrest. *I believe any citizen would find it objectionable when 'officers of the law' lie to cover their own misconduct and refuse to be forthright in producing information.*

Summary:

I'm sure you are aware that I spent 20 days in jail. I have also paid two fines in Macedon and Clyde for a total of \$470.00 – in addition I have turned the plates in for my car and stopped the insurance. I have not driven since the arrest on Nov. 17. I've presently filed papers in Wayne County Family Court to get this matter taken care of and expect a Court date in May.

I certainly hope, that in the 'interest of justice', a lot of time & effort can be saved for all parties and consideration be given to dismissal or an ACD. As stated in my letter to Chief Donalty, I hope the Court will find grounds for dismissal prior to trial.

Best regards!

CC: Wayne County DA Richard Healey
Attach: Letter to Chief Donalty

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