

STATE OF NEW HAMPSHIRE

CHESHIRE, SS.
DOCKET NUMBER: 11-CR-216

SUPERIOR COURT
FEBRUARY TERM, 2012

STATE OF NEW HAMPSHIRE

v.

JASON TALLEY

OBJECTION TO DEFENDANT'S "MOTION TO DISMISS"

NOW COMES the State of New Hampshire, by and through the Office of the Cheshire County Attorney, and **OBJECTS** to the Defendant's Motion to Dismiss. In support of its objection the State offers the following:

1. The defendant is charged with Contempt, Disorderly Conduct, and Resisting Arrest or Detention. Trial is scheduled for April, 2012.
2. The defendant asks the Court to dismiss the charges. According to the defendant, the charges arose only because of a series of Court rules and/or orders that, the defendant argues, unlawfully infringe upon Free Speech and the liberty of the press. The defendant asserts that the charges should be dismissed because the Court orders in question "represent an abuse of the public trust[.]" The defendant reasons that the pending criminal charges would never have been brought if the Court orders regarding recording devices were not in existence.
3. The State objects in part.
4. If the Court concludes that its previous orders should not now be enforced by the Contempt charge, then the State has no objection if the Court elects to dismiss the Contempt charge. The State leaves this to the discretion of the Court. (It should be noted,

however, that Judge Nadeau's order dated July 1, 2011, indicates that the order "shall be enforced through the contempt powers of the court." See attached order.)

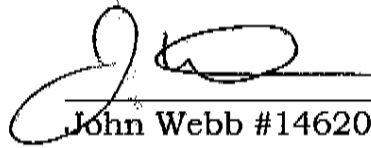
5. The State, however, objects to dismissal of the Disorderly Conduct charge and the Resisting charge. Nothing in the defendant's motion warrants dismissal of these charges. The bailiffs, on the date in question, were attempting to enforce an order issued by the Court. See attached Order issued by Judge Arnold dated July 15, 2011. The defendant refused to comply with the instructions given by the bailiffs at the security checkpoint at the entrance to the courthouse. In the process of his refusal, the State alleges, the defendant became disorderly, thereby disrupting the orderly conduct of business in the courthouse. The State further alleges that the defendant thereafter resisted arrest/detention.
6. Notwithstanding the foregoing, if the Court declines to enforce its now superceded orders by dismissing the Contempt charge, then it is within the Court's discretion to also dismiss the Disorderly and Resisting charges. See RSA 592-A:1 (stating that "the Superior Court has jurisdiction of all criminal cases and proceedings; but it may dismiss a prosecution originally begun therein which is within the jurisdiction of a district or municipal court"). The State brought the two misdemeanor charges originally in Superior Court because it would be contrary to judicial economy to separate the Contempt charge from the misdemeanors by bringing the Contempt in Superior Court and the misdemeanors in district court. If the Court dismisses the Contempt charge, however, then the rationale underpinning this decision is diminished.

WHEREFORE, the State respectfully requests that this Court:

- a) Deny the defendant's motion without a hearing; or

- b) Hold a hearing on the matter, but only if deemed necessary;
and
- c) Grant such other and further relief as this Court deems
equitable and just.

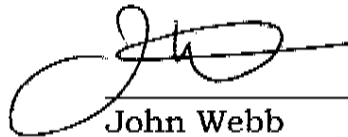
Respectfully Submitted,
STATE OF NEW HAMPSHIRE



John Webb #14620
Assistant County Attorney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing objection will be forwarded on or about this 7th day of February, 2012, to Bradley Jardis, acting as counsel for the defendant.



John Webb
Assistant County Attorney
12 Court Street
Keene, NH 03431