

The State of New Hampshire

NEW HAMPSHIRE CIRCUIT COURT
6th Circuit – District Division – Hillsborough

STATE OF NEW HAMPSHIRE

v.

IAN H. BERNARD

444-2013-CR-529

STATE'S OBJECTION TO DEFENDANT'S MOTION TO DISMISS/STRIKE

NOW COMES the State of New Hampshire, by and through its attorney, Michael A. Beausoleil, objecting, in part, to Defendant's Motion to Dismiss/Strike, and in support thereof, states as follows:

Procedural Posture

1. Ian Freeman a.k.a. Ian H. Bernard ("Defendant") was issued a speeding ticket under RSA 265:60 on March 22, 2013.
2. Defendant filed several motions, one of which was a Motion to Dismiss/Strike in which he argues that the Court does not have jurisdiction over him.
3. The State objects stating that statutory authority and common law authority clearly establishes the court's jurisdiction over this matter.

Argument

(Legal Authority for 265:60)

4. RSA 265:60 is violation level offenses as defined by 625:9.
5. While RSA 265:60 is outside RSA 625, RSA 625:7 clearly indicates that RSA 625 through 629 applies to offenses defined outside this code, which necessarily includes violations under the motor vehicle code.
6. New Hampshire RSA 625:4, I, (a) States in pertinent part that "...a person may be convicted under the laws of this state for any offense committed by his own conduct or by the conduct of another for which he is legally accountable if: [e]ither conduct which is an element of the offense or the result which is such an element occurs within this state." N.H. RSA 625:4 (2013) (emphasis added). The charges against Defendant (a person) arose in Bennington and Antrim N. H. Bennington and Antrim are towns in N.H. (i.e. "within this state"). Therefore the court has jurisdiction over this defendant for the acts alleged. Jurisdiction over Defendant is further explained in State v. Blackmer, which cites to 624:4, I, (a) as the basis for jurisdiction over a defendant, in addition to subject-matter jurisdiction. State v. Blackmer, 149 N.H. 47, 51 (N.H. 2003).
7. Violation are not crimes. N.H. RSA 625:9, II, (b) (2013); see also State v. Doe, 116 N.H. 464 (1976); State v. Auger, 147 N.H. 752 (2002). Consequently, all of Defendant's arguments regarding jurisdiction over "crimes" are inapplicable/irrelevant.
8. Given the foregoing, the State argues that the authority to establish and enforce RSA 263:60 as applied to the instant defendant is valid and beyond dispute.

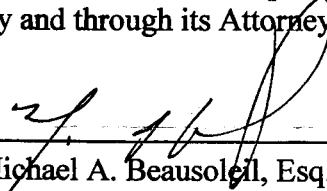
WHEREFORE, the State respectfully requests that this Honorable Court:

- A. Deny Defendant's Motion to Dismiss/Strike;
- B. Schedule the matter for trial; and
- C. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

The State of New Hampshire,
By and through its Attorney,

April 25, 2013

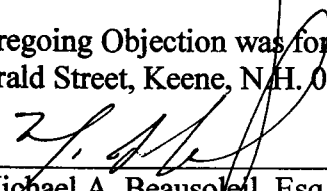


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CERTIFICATION

I do hereby certify that a copy of the foregoing Objection was forwarded via U.S. Mail to: Ian Freeman aka Ian Brenard, 63 Emerald Street, Keene, N.H. 03431.

April 25, 2013



Michael A. Beausoleil, Esq. (16163)