

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT

CHESHIRE COUNTY

8TH CIRCUIT – DISTRICT DIVISION - KEENE

State of N.H., Plaintiff v. Ian B. Freeman, Defendant
Docket No. 449-2014-CR-01134

DECISION

The defendant is charged pursuant to two Complaints. The first alleges the offense of unsworn falsification under RSA 641:3. The essential allegation is that the defendant knowingly made a written statement which he knew not to be true, stating that he was Ian Holt Bernard, upon a form bearing a notification authorized by law to the effect that false statements therein were punishable, to wit: an Application for Driver License or Non Driver I.D. Card.

The second Complaint, brought under the Motor Vehicle Code, is entitled "Prohibitions," and refers to RSA 263:12. That Complaint alleges that the defendant knowingly used a false name, to wit: Ian Holt Bernard, in an Application for Driver License or Non Driver I.D. Card.

After consideration of the evidence adduced at the trial in this case on September 18, 2014, the court finds that the state proved its cases beyond a reasonable doubt. Accordingly, the defendant is found **GUILTY** on both charges.

The essential background facts in this case are as follows.

Until November 7, 2013, the defendant's legal name, that is the name on his birth certificate, was Ian Holt Bernard. Although he frequently held himself out as Ian Freeman, pursuant to his political and other activities, that name did not change formally until November 7, 2013, when he successfully changed it, in the Probate Division of this Court, to Ian Freeman.

In or around October 2013, the defendant was advised that, ostensibly due to his residency in New Hampshire for a lengthy period of time, he would need to procure a New Hampshire driver's license. He was notified that if he did not do this within a specific time frame, he would go under suspension. On November 7, 2013, the defendant came to the local office of the Division of Motor Vehicles (DMV). He had all the necessary paperwork to obtain a driver's license under his now new name, Ian Freeman. However, he was advised at that time that the new name would require him to make the same change with respect to

his Social Security Administration records. This, in turn, would necessitate a \$100.00 reinstatement fee when the time came for him to get a new license under the name Ian Freeman.

Due, however, to personal and political objections, the defendant declined to deal with the Social Security Administration. The next day, November 8, 2013, the defendant returned, again with all the necessary paperwork to procure a New Hampshire driver's license, but this time applying under the name of Ian Bernard. At this point, however, Ian Bernard was not his legal name. Because the paperwork was otherwise apparently in order, the defendant was issued a license.

The defendant made no further efforts to change his license from Ian Bernard to Ian Freeman until he learned that he was under investigation by the New Hampshire State Police. This investigation was triggered, at least in part, when it was determined that the defendant was seeking a voter identification card under a different name. He was declined the issuance of that card on at least two occasions, once in Keene and once in Nashua.

It appeared to Sgt. Andrew Player of the New Hampshire State Police that the defendant had been seeking voter I.D. cards under the Ian Freeman name, and that there was inconsistency between the two matters: the driver's license and the voter I.D. applications.

After some measure of investigation, it was determined that, as far as the State Police were concerned, the defendant had violated the above-referenced statutes, an Arrest Warrant was approved, and the defendant was placed under arrest. This occurred on a pre-arranged basis. When, however, the defendant was being arrested, and it was pointed out to him that it appeared that on or about March 20, 2014, he had renewed a *Florida* license, Sgt. Player testified that the defendant appeared to get nervous. It also was testified to that the defendant, prior to his arrest, handed off his wallet to a third party. Sgt. Player thought this unusual, in the sense that most people would keep their driver's licenses in their wallets, and it appeared to Sgt. Player that the defendant was hoping his wallet would not be inspected. In fact, when there was a later meeting between Sgt. Player and the defendant at the Courthouse in Keene, the defendant admitted that he had a second driver's license from the State of Florida.

At the trial, the State introduced a number of documents in support of its case. These included:

1. Application for Driver License or Non-Driver I.D. Card (Exhibit 1)
2. A copy of the Defendant's Florida Birth Certificate, listing his name as Ian Holt Bernard (Exhibit 2)
3. A photocopy of the Defendant's Florida driver's license (Exhibit 3)

4. A residency document indicating the defendant's occupancy of the premises at 73 and 75 Leverett Street in Keene (Exhibit 4)
5. Notice of Hearing for the defendant's Probate Court name change case (Exhibit 5)
6. The defendant's actual Florida driver's license, indicating it was renewed on March 20, 2014, and that it had been issued originally on August 10, 2012 (Exhibit 6?)

The testimony at trial, along with the above-referenced documents, clearly demonstrates that, on November 8, 2013, the defendant knew that his legal name was no longer Ian Bernard, but was Ian B. Freeman. Nevertheless, and with that full knowledge, the defendant filled out and offered an Application for Driver's License under a different name, to wit: Ian Bernard. He did so knowing full well that the day before, when he purported to seek a license under his new legal name of Ian Freeman, his application would not be processed absent Social Security information about the name change. This was information that the defendant, both at the time of the application and in court, said he would not do, based on his personal feelings toward the Social Security Administration. It is reasonable to infer, from the defendant's conduct on November 8, 2013, that it was his intention to obtain a license one way or another, and that the most expeditious way to do it would be to apply in a different name and save himself \$100.00. The defendant does not deny that he could have followed through and changed his license any time after November 8, 2014 to his legal name of Ian Freeman, but, until he knew he was under investigation approximately four months later, he took no action in that regard.

The defendant seeks to explain his conduct by saying that he had no criminal intent, and that it was a simple mistake on his part. He further attempts to assign blame for the case on DMV employees, trying to argue that they had a duty to him to inform him that what he was doing could be charged as a criminal offense. The defendant, however, has directed the Court to no legal authority that supports his claim that any state employee had any such obligation to him. Rather, it was he who had the full knowledge that what he was doing was improper, and that he knew his legal name was being misrepresented on the application.

The defendant asks the Court to apply the finding in Moskowitz v. Moskowitz, 118 N.H. 199 (1978). That case pointed out that "**in the absence of statutory restrictions**, one may lawfully change his name at will without resort to any legal proceedings if the change is not made for a fraudulent, criminal, or wrongful purpose." Citations omitted. Moskowitz at 202 (emphasis supplied). The defendant simply ignores the limiting language emphasized above. Here, an application for a driver's license requires that one's legal name be provided. In this sense, that requirement constitutes a statutory restriction which was anticipated even in the Moskowitz case. Furthermore, the defendant is charged with a criminal or wrongful act. Thus, he is not entitled to the protection of the language that he relies upon in Moskowitz. The very essence of this case is that he used a different name for the purpose of gaining an

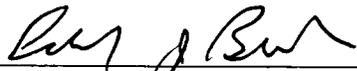
advantage to which he was not otherwise legally entitled. The defendant's reliance on Moskowitz is, therefore, misplaced.

Finally, the defendant's criminal intent can be inferred from all the circumstances that were described during the testimony. Most significant is the fact that while the defendant was seeking a New Hampshire driver's license, irrespective of under which name, he simultaneously, and without disclosing it to New Hampshire authorities, maintained a Florida license. He was so intent upon obtaining and maintaining two licenses, that he actually renewed the Florida license in March of 2014.

For the reasons cited above, the Court finds the defendant guilty beyond a reasonable doubt. The matter will be scheduled for sentencing as the docket allows.

So Ordered.

September 25, 2014
Date


Hon. Edward J. Burke, Presiding Justice