

# THE STATE OF NEW HAMPSHIRE

## JUDICIAL BRANCH

### NH CIRCUIT COURT

\_\_\_\_ COUNTY

6<sup>TH</sup> CIRCUIT – DISTRICT DIVISION - CONCORD

State of New Hampshire

v.

A.R. Marple

Docket No. 429-2014-CR-00153

### FURTHER ORDER ON JURISDICTION

The accused, A.R. Marple, has been charged with Driving after Suspension and Driver's License Prohibition.

At Mr. Marple's Case Status Hearing on December 19, 2016, he raised additional challenges to the Court's jurisdiction, so a Further Hearing was scheduled for January 13, 2017.

At the Hearing on January 13, 2017, Mr. Marple was given another opportunity to argue his position with respect to the jurisdiction of the Court. At this Hearing and in the written documents he submitted to the Court, Mr. Marple maintains that he is an American citizen, is his own "sovereign," and that he has a Constitutional right to travel on New Hampshire roadways without a license. Mr. Marple cited case law from a number of other jurisdictions, including from the State of Washington in State v. City of Spokane, 186 P. 864 (1920), to support his position that individuals have the right to use the roadways for their personal use, "in the ordinary course of life," and that it is only motor vehicles used for commercial purposes that are subject to governmental regulation, because they are using the roads in the course of their business, not in the ordinary course of life.

While the Court appreciates Mr. Marple's arguments and reasoning, the Court rules that the Court does have jurisdiction over these matters, based upon the United States Constitution, the New Hampshire Constitution, New Hampshire State law, and New Hampshire case law.

As a starting point, Section 1 of the 14<sup>th</sup> Amendment to the United States Constitution states, in part, that "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside..." Additionally, the United States Constitution, 10<sup>th</sup> Amendment, states that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the public." The United States Supreme Court has also ruled that a state may prescribe uniform regulation. Hendrick v. Maryland, 235 U.S. 610 (1915).

Further, Part II, Article V of the New Hampshire Constitution gives the New Hampshire General Court the power to make laws. Therefore, the motor vehicle laws enacted by the New Hampshire General Court, including the requirement that individuals must have a valid driver's license in order to drive on New Hampshire roadways, are valid and may be enforced.

The New Hampshire Supreme Court has also consistently ruled that the operation of an automobile upon a public highway is not a right, but "...only a privilege which the state may grant or withhold at pleasure...." State v. Sterrin, 78 N.H. 220, 222 (1916), citing Comm.v. Kingsbury, 199 Mass. 542. The Court, in State v. Sterrin, at 222, also cited State v. Corron, 73 N.H. 434, 446 (1905), which references a liquor licensee, by stating: "The statute confers a privilege which the citizen is at liberty to accept by becoming a licensee, or not, as he pleases. Having accepted the privilege, he cannot object to any conditions which have been attached thereto by a grantor with power to entirely withhold the privileges."

In the Opinion of the Justices, 102 N.H. 183 (1959), the New Hampshire Supreme Court once again upheld the right to require driver's licenses in the State of New Hampshire. In this Decision, the Court did also say: "To the extent that a motor vehicle license may be more than a privilege it is nevertheless subject to regulation under the police power." See: also, Rosenblum v. Griffin, 89 N.H. 314, 318 (1938); State v. Wood, 98 N.H. 418 (1953); Opinion of the Justices, 94 N.H. 501 (1947), and RSA 263:12, RSA 263:64, and RSA 625:9.

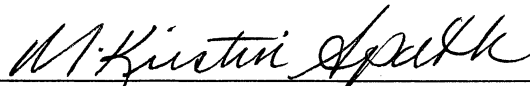
Having found that the motor vehicle laws enacted by the New Hampshire General Court are valid, the Court now turns to the question of whether the New Hampshire Circuit Court, 6<sup>th</sup> Circuit – District Division – Concord, has jurisdiction over these matters. The Court finds that it does, pursuant to Part I, Article 17; Part I, Article 4; and Part II, Article 72-a of the New Hampshire Constitution, and as enumerated in RSA 490-F and RSA 502-A.

Because the Court finds that it properly has jurisdiction, the Clerk shall schedule these matters for Trial.

**So Ordered.**

February 21, 2017

Date



Hon. M. Kristin Spath, Judge