

STATE OF NEW HAMPSHIRE

MERRIMACK, SS

MERRIMACK COUNTY SUPERIOR COURT

Bradley R. Jardis, pro se.
10 Congress Street #302
Amesbury, MA 01913

Case No.

v.

John M. Formella

(In his official capacity as Attorney General of the
State of New Hampshire)

33 Capitol Street
Concord, NH 03301

PETITION FOR DECLARATORY JUDGMENT PURSUANT TO RSA 491:22

Plaintiff Bradley R. Jardis, appearing pro se, respectfully petitions this Honorable Court for a declaratory judgment pursuant to RSA 491:22, declaring that RSA 594:5 (Resisting Arrest) is unconstitutional as applied and on its face under Part I, Article 10 of the New Hampshire Constitution. In support thereof, Plaintiff states as follows:

I. PARTIES

1. Plaintiff Bradley R. Jardis is a resident of Amesbury, Massachusetts, with a demonstrated interest in New Hampshire's judicial system and public accountability. Plaintiff is a former law enforcement officer in New Hampshire, and he frequently travels to and engages in First Amendment-protected activities within the State, including attending court proceedings, and advocating for government accountability on www.FreeKeene.com. Plaintiff has a history of involvement in New Hampshire legal matters, including supporting motions and appeals related to prosecutorial and judicial misconduct and victim rights, and he reasonably fears arrest and prosecution under RSA 594:5 and 642:2 for non-violent resistance to potentially unlawful detentions during such activities, such as this Petition.
2. Defendant John M. Formella is the Attorney General of the State of New Hampshire, sued in his official capacity. As the chief law enforcement officer of the State, the Attorney General is responsible for defending the constitutionality of state statutes and is the proper defendant in this action challenging the validity of RSA 594:5 under the New Hampshire Constitution.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over this matter pursuant to RSA 491:22, which authorizes declaratory judgments to determine the validity of statutes where a person claims a present legal or equitable right that is adversely affected. Plaintiff seeks a declaration regarding the constitutionality of RSA 594:5, a statute that impairs his rights under the New Hampshire Constitution.
4. Venue is proper in Merrimack County Superior Court because the Defendant's principal office is located in Concord, Merrimack County, and no specific county is implicated by the underlying facts. RSA 507:9; RSA 491:7.

III. FACTS

5. RSA 594:5 provides: "If a person has reasonable ground to believe that he is being arrested and that the arrest is being made by a peace officer, it is his duty to submit to arrest and refrain from using force or any weapon in resisting it, regardless of whether there is a legal basis for the arrest."
6. This statute declares state policy that any resistance to arrest is unacceptable, even when the arrest lacks legal basis, and has been applied to non-violent, lawful conduct, chilling protected activities and enabling arbitrary enforcement. RSA 594:5 underpins enforcement of RSA 642:2, the statute that bears criminal penalties for resisting arrest.
7. The statute's application is illustrated by the case of *State v. Jason Talley* (Cheshire County Superior Court, Docket #11-CR-216, circa 2011-2012). In July 2011, Jason Talley, a military veteran and independent journalist, entered the Cheshire County Superior Court carrying a video camera attached to his belt. This violated a judge-issued administrative order prohibiting cameras in court facilities, enacted without legislative input following a prior incident involving protected speech.
8. Court bailiffs confronted Talley and ordered him to surrender the camera or leave. Talley refused, asserting his First Amendment rights to possess recording devices in public spaces. Bailiffs then physically detained and arrested him. Talley engaged in passive, non-violent resistance—he did not use or threaten force but refused to actively assist in his removal.
9. Talley was charged under RSA 642:2 for resisting arrest or detention, as well as contempt of court and disorderly conduct. The charges stemmed from enforcement of an arguably unconstitutional order that shielded judicial proceedings from public scrutiny rather than advancing public safety. The charges were eventually dismissed due to a prosecutorial "error," but the incident demonstrates how RSA 594:5 enables overreach, criminalizing dissent and non-violent refusal to comply with unlawful directives.
10. Plaintiff, like Talley, engages in similar activities in New Hampshire, such as attending court proceedings and advocating for transparency. Plaintiff has a reasonable fear that RSA 594:5 could be used against him for passive resistance to unlawful detentions, such as refusing to surrender recording equipment in public forums. This fear creates a present controversy, as the

statute prejudices Plaintiff's rights to free speech, assembly, and protection from arbitrary government action under the New Hampshire Constitution.

IV. LEGAL ARGUMENT

11. Part I, Article 10 of the New Hampshire Constitution provides: "Government being instituted for the common benefit, protection, and security, of the whole community, and not for the emolument or private interest of any one man, family or class of men; therefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought, to reform the old, or establish a new government. **The doctrine of nonresistance against arbitrary power, and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.**"

(emphasis added)
12. RSA 594:5 violates Article 10 by mandating nonresistance to arbitrary power and oppression, serving the private interests of law enforcement and judicial officers rather than the common benefit. The statute requires submission to arrest "regardless of whether there is a legal basis," enabling unchecked discretion that perverts government ends and endangers public liberty.
13. The statute is unconstitutionally vague and overbroad under the due process protections of Part I, Article 15 of the New Hampshire Constitution, as applied in cases like Talley, where it criminalizes passive resistance to unlawful orders without providing persons of ordinary intelligence fair notice of prohibited conduct or encouraging arbitrary and discriminatory enforcement. This burdens innocent citizens without a rational relation to public welfare, privileging the "class" of peace officers to quash accountability.
14. The plain language of Article 10 conflicts with RSA 594:5 in that the statute requires nonresistance to arbitrary power and oppression and accordingly institutionalizes a "doctrine of nonresistance" that Article 10 expressly condemns as "absurd, slavish, and destructive."
15. Plaintiff has standing under RSA 491:22, as he claims a present equitable right to be free from the threat of prosecution under an unconstitutional statute that directly impacts his activities in New Hampshire. No underlying insurance or tax issue precludes this petition (RSA 491:22, III).

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Declare that RSA 594:5 is unconstitutional on its face and as applied under Part I, Article 10 of the New Hampshire Constitution;

B. Enjoin enforcement of RSA 642:2 predicated on RSA 594:5 against non-violent resistance to **unlawful** arrests;

C. Grant any such other relief as the Court deems just and equitable.

Respectfully submitted,

Bradley R. Jardis

October 27, 2025

VERIFICATION

I, Bradley Jardis, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

PURSUANT TO SUPERIOR COURT RULE 3(A) I CERTIFY THAT ON THIS DATE A COPY OF THIS PETITION HAS BEEN MAILED TO THE NEW HAMPSHIRE ATTORNEY GENERAL.