

1 Lawyerdude
2 Attention: Francisco Martinez
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6 This document is <http://www.lawyerdude.netfirms.com/7949.pdf>

7
8 **Municipal Court of Wilsonville, Oregon**
9 30 000 Southwest Town Center Loop E, Wilsonville, Oregon 97070
10 Clerk: 503-682-1011, Fax: 682-1015.
11 Clerk: munsterman@ci.wilsonville.or.us
12 Court of J.Michael Gleeson

13 Clerk, unlawfully dba under false color of law Ticket #T 108 566 01
14 as City of Wilsonville,
15 v Document #7949
16 Francisco Martinez First Substantive Motion of F Martinez
17 **Demand to Quash.**

18 **Demand to Quash**

19 To the clerk of court who is the prosecutor: At the venue designated in the
20 caption or at such other venue as the court shall designate, I will demand that you dismiss
21 this case. You are not a prosecutor. The inquisition ended.
22 Signed _____ Francisco Martinez Wednesday, September 6, 2006

23 Contents of this Demand

24 **Statement of the Case** Page 2 of 6

25 **Table of Authorities cited herein:** Page 2 of 6

26 **U.S. Constitutional Clauses Cited herein:** Page 2 of 6

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28 **Table of Statutes cited herein:** Page 3 of 6

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The clerk is acting as prosecutor; that is wrong. Dismissal is the remedy.
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Permitting Police to Summon denies Equal Protection Under the Law
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**The Legislature may not give Police the Power to Summon and may not give
Clerks the power to prosecute.** Page 5 of 6

1 **Oregon Constitutional Clauses Cited herein:**

2 Oregon constitution: Section 10. Administration of justice. No court shall be secret, but
3 justice shall be administered, openly and without purchase, completely and without delay,
4 and every man shall have remedy by due course of law for injury done him in his person,
5 property, or reputation. Page 3 of 6

6 **Table of Statutes cited herein:**

7 Penal Code§ 740 states as follows: Except as otherwise provided by law, all
8 misdemeanors and infractions must be prosecuted by written complaint under oath
9 subscribed by the complainant. Page 5 of 6

10 **Cases cited herein:**

11 *People v Dragomir* Feb 14, 2006 <http://www.lawyerdude.netfirms.com/Dragomir.html>
12 Page 4 of 6

13 *People v Carlucci* 1979 <http://www.lawyerdude.8k.com/Carlucci.htm>
14 <http://www.lawyerdude.netfirms.com/carlucc.html> Page 4 of 6

15 **Argument**

16 **The clerk is acting as prosecutor; that is wrong. Dismissal is the remedy.**

17 This argument is based on the **Due Process Clause** of the U.S. constitution.

18 This argument is based on independent state grounds. The Oregon constitution
19 makes it sound as though we created the government to serve us, not to govern us:

20 Oregon constitution: Section 10. Administration of justice. No
21 court shall be secret, but justice shall be administered, openly
22 and without purchase, completely and without delay, and every
23 man shall have remedy by due course of law for injury done
24 him in his person, property, or reputation.

25 By stealthy encroachment over the court of generation, all governments and other
26 corporations encroach upon the personal freedoms of humans. The human lives only 75 years.
27 The father fails to warn the grandchild of the lies of the corporation. The lie remains unchallenged
28 generations later due to human ignorance and mortality. The immortality of the corporation gives
the government opportunity to encroach as such a speed as to be imperceptible by a single
generation of humans.

The summons was originally a document issued by a civil court only after the civil
prosecutor had made a decision to prosecute. As the court corporations became fatter they
ordered the litigants: "write our summonses and bring them to use for signature". Their fellow
government minions in the legislature wrote the corresponding rules.

1 Then the courts saw the money flow and realized that they should promote the traffic ticket
2 game by processing the tickets without a prosecutor.

3 The court recognized the power it wields in criminal case. If they converted a civil action
4 into a criminal action they could then change their posture to an inquisitorial posture.

5 This is unconstitutional. The remedy is dismissal. Only a prosecutor can prosecute a
6 criminal offense. This is not an administrative tribunal. If it were, there would be a hearing officer
7 or administrative law judge.

8 The prosecution may not be done without any prosecutor. *People v Carlucci* 1979
9 <http://www.lawyerdude.8k.com/Carlucci.htm> <http://www.lawyerdude.netfirms.com/carlucc.html> *People v Dragomir*
10 Feb 14, 2006 <http://www.lawyerdude.netfirms.com/Dragomir.html>

11 **Declaration of Attorney Douglas Palaschak regarding Summonses**

12 I, Douglas Palaschak, declare the following under penalty of perjury: I am an Engineering
13 Graduate of the University of Illinois, Urbana, where I was an honors student. I marched in "The
14 Marching Illini", the world's undisputed Premiere Marching Band. I began my career as a
15 Registered Professional Engineer having consulted for the U.S. Navy, Mobil, and Exxon. I have
16 testified as an expert witness in the catastrophic failure of oil production machinery.

17 I have been a licensed lawyer for nearly a quarter century. I publish nearly 1200 legal
18 articles on the internet. My areas of expertise are:

19 Licenses, Rights, and Privileges, and their use as Instruments of Oppression,
20 Criminal Defense,
21 Internet-driven Improvements in the Efficiency of Litigation,
22 Empowerment of Pro Se Litigants,
23 Bankruptcy.

24 My most recent book is on the subject of Pre-trial Criminal Litigation of Malum Prohibitum
25 Crimes. It is available by mail order via the internet.

26 **A ticket can never be a summons.**

27 A summons is required for the court to gain jurisdiction. A summons is a notification from
28 the court addressed to the defendant in a pending case. A ticket is never a summons despite the
intentions of the legislature. When a person write a ticket there is no pending case. There will be
no pending case until a prosecutor has made a decision to prosecute. Then the prosecutor files
a complaint. Only then is a summons possible. There is then a pending case. I would then have
the opportunity to settle the case with the prosecutor. Most traffic courts today permit the clerk to
prosecute the case. This practice is unconstitutional. It is an example of denial of equal protection.
I would like the clerk to be working on my side of the case. The clerk has demonstrated a bias for
the prosecution. Also, the clerk is paid by the money earned by the ticket that she prosecutes. No.

1 This will not stand.
2 - Douglas Palaschak

3 **A defendant may appear by motion.**

4 I need not appear in person but may appear by motion. I have appeared as agreed by my
5 signature on the notice to appear by entering this motion to quash.

6 The ticket is no kind of summons. To call it a summons is to redefine fundamental terms
7 in the middle of the game. This denies me due process. Changing the terms is a common
8 instrument of oppression. See the entire list of Modern Day Instruments of Oppression at:
9 <http://www.lawyerdude.8k.com/5724.html>

10 **Permitting Police to Summon denies Equal Protection Under the Law**

11 When I want to sue the police I must jump through the hooks of a summons and complaint
12 and filing feed. Conversely when he wants to "sue" me he uses his ticket book. Then the clerk
13 prosecutes for him. Wow, I with that lawsuit were that quick and easy. That difference denies me
14 equal protection.

15 **The Legislature may not give Police the Power to Summon and may not give Clerks the
16 power to prosecute.**

17 Penal Code § 740 states as follows:

18 Except as otherwise provided by law, all misdemeanors and
19 infractions must be prosecuted by written complaint under oath
20 subscribed by the complainant.

21 PC § 949 states as follows: The first pleading on the part of the people in a misdemeanor or
22 infraction case is the complaint except as otherwise provided by law.

23 Oregon law is similar. All criminal law follows the ancient common law.

24 **Special Scrutiny and Prosecution for those who know the law denies equal protection.**

25 In the case of Attorney Douglas Palaschak, the Ventura courts would send him to a different
26 court so that he could not complain of being prosecuted by the clerk. In fact he once asked "who
27 accuses me" after the judge read the traffic accusation. After a pause, the 20 year veteran clerk
28 spoke up "The court accuses you." Well, of course, the court is there to resolve disputes, not
create them. When a court or lawyer stirs up disputes this is called barratry which, by the way, is
the only crime anywhere that is not a crime until you do it 3 times.

You may not now subject me to special scrutiny for purposes of efficiency in your
scandalous and corrupt fraud. You must dismiss my case now.

Signed _____ Franciso Martinez. Wednesday, September 6, 2006

Proof of Service

I, LawyerDude, served this document upon the plaintiff by publication on the net. Thereafter
I served this document upon the prosecutor in this case by faxing it to court clerk at the fax number

1 below at around 4 pm on Wednesday, September 6, 2006.
2 Service List:
3 Municipal Court of Wilsonville, Oregon
4 Clerk:503- 682-1015.
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