

1988

# Karen Thatcher v. Logan City : Brief of Appellant

Utah Court of Appeals

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UTAH COURT OF APPEALS  
BRIEF

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UTAH COURT OF APPEALS

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KAREN THATCHER,	)	
Appellant/Defendant,	)	
vs.	)	Case No. 880451-CA
LOGAN CITY,	)	
Appellee/Plaintiff.	)	

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ON APPEAL FROM THE FIRST CIRCUIT COURT CACHE COUNTY  
JUDGE PARLEY R. BALDWIN

---

BRIEF OF APPELLANT

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#### Abbreviations

All citations which are underlined as follows "77-7-21" are citations to Section numbers of Utah Code Annotated 1953.

All references to "Add." are to the addendum of this Brief.

All references "R. pg. \_\_\_\_" are to the Record of the Circuit Court and to pages therein.

## JURISDICTIONAL STATEMENT

This is an appeal from a judgment entered by the First Circuit Court, Cache County division, upon a jury verdict of guilty of the Logan City ordinance expired registration offense and from an earlier Decision excluding proffered evidence of gross ultra vires official misconduct in processing the charge and constituting a denial of due process defense. This court has jurisdiction over this appeal under Rule 3 of R. Utah Ct. App.

## STATEMENT OF THE ISSUES

1. Is Karen Thatcher not guilty of the expired vehicle registration charge because Logan City and the Circuit Court denied due process in employing forms and practices in her apprehension and prosecution which were not only in direct conflict with Utah Statutory requirements for those proceedings, but also constituted criminal prosecutorial practices denying constitutional due process and her right to a public jury trial?

2. Did the court deny Karen Thatcher's right to a speedy trial?

3. Does Sec. 77-7-18 - 21 deny due process because it prescribes citation contents designed to unfairly and involuntarily extract bail forfeitures and fines and because of facial threats of "discretionary" warrant issuance without fairly advising the citizens of the compulsory

additional findings required before issuing warrants and because of vagueness and because it authorizes judicial process terms to describe the citation?

#### RELEVANT STATUTES AND ORDINANCES

All of the following statutes are taken from the Utah Code Annotated 1953, and are referenced in this Brief by underlined section number as follows: "77-35-1". Underlining and bold face emphasis added.

##### Criminal Statutes

**76-8-512. Impersonation of officer. A person is guilty of a class B misdemeanor if he impersonates a public servant or a peace officer with intent to deceive another or with intent to induce another to submit to his pretended official authority or to rely upon his pretended official act.**

**76-8-513. False judicial or official notice. A person is guilty of a class B misdemeanor who, with a purpose to procure the compliance of another with a request made by the person, knowingly sends, mails, or delivers to the person a notice or other writing which has no judicial or other sanction but which in its format or appearance simulates a summons, complaint, court order, or process, or an insignia, seal, or printed form of a federal, state, or local government or an instrumentality thereof, or is otherwise calculated to induce a belief that it does have a judicial or other official sanction.**

##### Criminal Procedural Rules

**77-35-1. Rule 1 - General provisions.** (a) This chapter shall be known and may be cited as the "Utah Rules of Criminal Procedure."

(b) These rules shall govern the procedure in all criminal cases in the courts of this state except juvenile court cases. These rules are intended and shall be construed to secure simplicity in procedure, fairness in administration, and the elimination of unnecessary expense and delay. (Subsection (c) omitted)



**77-35-3. Rule 3 -- Service and filing of papers.**

(a) All written motions, notices and pleadings shall be filed with the court and served on all other parties. (Subsection (b) and (c) omitted)

**77-35-4. Rule 4 -- Prosecution of public offenses.**

(a) Unless otherwise provided, all offenses shall be prosecuted by indictment or information sworn to by a person having reason to believe the offense has been committed.

(b) An indictment or information shall charge the offense for which the defendant is being prosecuted by using the name given to the offense by common law or by statute or by stating in concise terms the definition of the offense sufficient to give the defendant notice of the charge. An information may contain or be accompanied by a statement of facts sufficient to make out probable cause to sustain the offense charged where appropriate. Such things as time, place, means, intent, manner, value and ownership need not be alleged unless necessary to charge the offense. Such things as money, securities, written instruments, pictures, statutes and judgments may be described by any name or description by which they are generally known or by which they may be identified without setting forth a copy. However, details concerning such things may be obtained through a bill of particulars. Neither presumptions of law nor matters of judicial notice need be stated. (Subsections (c) - (k) omitted)

**77-35-5. Rule 5 -- Information and indictment.**

(a) Unless otherwise provided, all criminal prosecutions whether for felony, misdemeanor or infraction shall be commenced by the filing of an information or the return of an indictment. Prosecution by information shall be commenced before a magistrate having jurisdiction of the offense alleged to have been committed unless otherwise provided by law. (Subsection (b) omitted)

**77-35-6. Rule 6 -- Warrant of arrest or summons.**

(a) Upon the return of an indictment the magistrate shall cause to issue either a warrant for the arrest or a summons for the appearance of the accused.

Upon the filing of an information, "if" it appears from the information, or from any affidavit filed with the information, that there is probable cause to believe that an offense has been committed and that the accused has committed it, the magistrate shall

cause to issue either a warrant for the arrest or a summons for the appearance of the accused.

(b) If it appears to the magistrate that the accused will appear on a summons and there is no substantial danger of a breach of the peace, or injury to persons or property, or danger to the community, a summons may issue in lieu of a warrant of arrest to require the appearance of the accused. If the defendant is a corporation, a summons shall issue. A warrant of arrest may issue in cases where the defendant has failed to appear in response to a summons or citation or thereafter when required by the court. When a warrant of arrest is issued, the amount of bail shall be fixed by the magistrate and stated on the warrant.

(c) (1) The warrant shall be executed by a peace officer. The summons may be served by a **peace officer** or any person authorized to serve a summons in a civil action.

(2) The warrant may be executed or the summons may be served at any place within the state. (Subsections (3) & (4) omitted)

**77-35-7. Rule 7 -- Proceedings before magistrate.** (a)

(1) When a summons is issued in lieu of a warrant of arrest, the defendant shall appear before the court as directed in the summons. (Subsections (a)(2) - (f) omitted)

**Police Officer Jurisdiction Limits**

**77-9-3. Authority of peace officer of this state beyond normal jurisdiction.** (1) Any peace officer duly authorized by any governmental entity of this state may exercise a peace officer's authority beyond the limits of such officer's normal jurisdiction as follows:

(a) When in fresh pursuit of an offender for the purpose of arresting and holding that person in custody or returning the suspect to the jurisdiction where the offense was committed;

(b) When a public offense is committed in such officer's presence;

(c) When participating in an investigation of criminal activity which originated in such officer's normal jurisdiction in cooperation with the local authority;

(d) When called to assist peace officers of another jurisdiction.

(2) Any peace officer, prior to taking such authorized action, shall notify and receive approval of the local law enforcement authority, or if such prior contact is not reasonably possible, notify the local law enforcement authority as soon as reasonably possible. Unless specifically requested to aid a police officer of another jurisdiction or otherwise as provided for by law, no legal responsibility for a police officer's action outside his normal jurisdiction and as provided herein, shall attach to the local law enforcement authority.

#### Citation Enabling Statutes

77-7-18. Citation on misdemeanor or infraction charge. A peace officer, in lieu of taking a person into custody, or any public official of any county or municipality charged with the enforcement of the law, may issue and deliver a citation requiring any person subject to arrest or prosecution on a misdemeanor or infraction charge to appear at the court of the magistrate before whom the person should be taken pursuant to law if the person had been arrested.

77-7-19. Appearance required by citation--Arrest for failure to appear--Collection of bail amounts by Office of Recovery Services--Motor vehicle violations--Disposition of fines and costs.

(1) Persons receiving misdemeanor citations shall appear before the magistrate designated in the citation on or before the time and date specified in the citation.

(2) No citation shall require a person to appear sooner than five days or later than 14 days following its issuance.

(3) Any person who receives a citation and who fails to appear on or before the time and date and at the court specified shall be subject to arrest. The magistrate may issue a warrant of arrest and may order the Office of Recovery Services, within the Department of Social Services, to enforce collection of any bail amounts ordered by the court. The Office of Recovery Services may only permanently withhold its cost of collection from any bail amount collected which is subsequently forfeited. If the collected bail amount is forfeited, the appropriate percentage or amount of that forfeited bail shall be distributed to the appropriate governmental entity as provided by law. It is the intent of the Legislature that appropriations to the Department of Public Safety

reflect a percentage of the forfeited bail amounts collected by the Office of Recovery Services pursuant to this subsection and Section 55-15-C8, so that the costs of law enforcement may be adequately recognized.

(4) Except where otherwise provided by law, citations or informations, issued for violations of Title 41, Utah Code Annotated 1953, shall state that the person receiving the citation or information shall appear before the magistrate nearest and most accessible to the place of violation who has jurisdiction over the offense charged. If the citation or information is issued for a violation within the geographical boundaries of any municipality or county precinct in which a justice court exists and in which a justice of the peace is currently serving, such court shall be deemed the nearest most accessible magistrate before whom such person shall appear; provided, however, that consistent with Section 78-4-5, informations or citations issued for driving under the influence of alcohol or drugs, driving with blood alcohol content of .10% or higher, and reckless driving may be filed and tried in the circuit court in the county where the offense occurred without regard to the location of the offense within the county.

(5) Any justice of the peace may, upon his own motion or upon the motion of either defense attorney or prosecuting attorney, transfer cases to the nearest justice of the peace court or the nearest circuit court within said county, except those cases filed under municipal ordinances.

(6) It shall be the duty of clerks and other administrative personnel serving the circuit, juvenile, and justice courts to ensure that all citations for violation of Title 41, Utah Code Annotated 1953, are filed properly in accordance with the foregoing subsection and to refuse to receive citations that should be filed in another court. Fines, fees, costs and forfeitures imposed or collected for violations of Title 41, Utah Code Annotated 1953, which are not filed contrary to the foregoing subsections shall be paid over to the municipality or county entitled to the same by the state, county, or municipal treasurer who has received such fines, fees, costs, or forfeitures from the court which collected them. Such accounting and remitting of any sums due hereunder shall be accomplished at the close of the fiscal year of the municipality or county which has received fines,

fees, costs, or forfeitures as a result of any improperly filed citations.

**77-7-20. Service of citation on defendant--Filing in court--Contents of citations.** (1) If a citation is issued pursuant to section 77-7-18, the peace officer or public official shall issue one copy to the person cited and shall within five days file a duplicate copy with the court specified in the citation.

(2) Each copy of the citation issued under authority of this chapter shall contain:

(a) The name of the court before which the person is to appear;

(b) The name of the person cited;

(c) A brief description of the offense charged;

(d) The date, time and place at which the offense is alleged to have occurred;

(e) The date on which the citation was issued;

(f) The name of the peace officer or public official who issued the citation, and the name of the arresting person if an arrest was made by a private party and the citation was issued in lieu of taking the arrested person before a magistrate;

(g) The time and date on or before and after which the person is to appear;

(h) The address of the court in which the person is to appear;

(i) A certification above the signature of the officer issuing the citation in substantially the following language: "I certify that a copy of this citation or information (Summons and Complaint) was duly served upon the defendant according to law on the above date and I know or believe and so allege that the above-named defendant did commit the offense herein set forth contrary to law. I further certify that the court to which the defendant has been directed to appear is the proper court pursuant to section 77-7-21."; and

(j) A notice containing substantially the following language:

READ CAREFULLY

This citation is not an information and will not be used as an information without your consent. If an information is filed you will be provided a copy by the court. You MUST appear in court on or before the time set in this citation. IF YOU FAIL TO APPEAR AN INFORMATION WILL BE FILED AND THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.

**77-7-21. Proceeding on citation--Voluntary forfeiture of bail--Information, when required.** (1) Whenever a citation is issued pursuant to the provisions of section 77-7-18, the copy of the citation filed with the magistrate may be used in lieu of an information to which the person cited may plead guilty or no contest and be sentenced or on which bail may be forfeited. With the magistrate's approval a person may voluntarily forfeit bail without appearance being required in any case of a class B misdemeanor or less. Such voluntary forfeiture of bail shall be entered as a conviction and treated the same as if the accused pleaded guilty.

(2) If the person cited willfully fails to appear before a magistrate pursuant to a citation issued under section 77-7-18, or pleads not guilty to the offense charged, or does not deposit bail on or before the date set for his appearance, an information shall be filed and proceedings held in accordance with the Rules of Criminal Procedure and all other applicable provisions of this code, which information shall be deemed an original pleading; provided, however, that the person cited may by written agreement waive the filing of the information and thereafter the prosecution may proceed on the citation notwithstanding any provisions to the contrary.

**77-7-22. Failure to appear as misdemeanor.** Any person who willfully fails to appear before a court pursuant to a citation issued under the provisions of section 77-7-18 is guilty of a class B misdemeanor, regardless of the disposition of the charge upon which he was originally cited.

Ordinance of Logan City, Section:

**42-15-32. Violation of Promise to Appear--Misdemeanor.**

(a) Any person willfully violating his written promise to appear in court, given as provided in this code, is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested.

(b) A written promise to appear in court may be complied with by an appearance by counsel.

## Contempt and Bench Warrant Enabling Statutes

**78-32-1. Acts and omissions constituting contempt.** The following acts or omissions in respect to a **court or proceedings therein** are contempts of the authority of the court:

(3) **Misbehavior in office**, or other willful neglect or violation of duty by an attorney, counsel, clerk, sheriff, or other person appointed or elected to perform a judicial or ministerial service.

(4) Deceit, or **abuse of the process** or proceedings of the court, by a party to an action or special proceeding.

(5) **Disobedience of any lawful judgment, order or process of the court.**

(6) **Assuming to be an officer, attorney or counselor of a court, and acting as such without authority.**

(12) Disobedience by an inferior tribunal, magistrate or officer of the lawful judgment, order or process of a superior court, or proceeding in an action or special proceeding contrary to law, after such action or special proceeding is removed from the jurisdiction of such inferior tribunal, magistrate or officer. **Disobedience of the lawful orders or process of a judicial officer is also a contempt of the authority of such officer.** (Subsections 1,2,7-11 omitted)

**78-32-3. In immediate presence of court; summary action--Without immediate presence; procedure.** When a contempt is committed in the **immediate view and presence of the court**, or judge at chambers, it may be punished summarily, for which an order must be made, reciting the facts as occurring in such immediate view and presence, adjudging that the person proceeded against is thereby guilty of a contempt, and that he be punished as prescribed in section 78-32-10 hereof. When the contempt is not committed in the immediate view and presence of the court or judge at chambers, an affidavit shall be presented to the court or judge of the facts constituting the contempt, or a statement of the facts by the referees or arbitrators or other judicial officers.

**78-32-4. Warrant of arrest, commitment or order to show cause may issue.** When the contempt is not committed in the immediate view and presence of the court or judge a warrant of attachment may be issued

to bring the person charged to answer, or, without a previous arrest, a warrant of commitment may, upon notice, or upon an order to show cause, be granted; and no warrant of commitment can be issued without such previous attachment to answer, or such notice or order to show cause.

Utah and U.S. Supreme Court Law on Statutory Interpretation

Quoting from Supreme Court of Utah, Deseret Savings Bank v. Francis et al., 62 Utah 85, 217 P. 114 (1923):

"In Supervisors v. U.S., supra, (4 Wall 435, 18 L.Ed. 419) Mr. Justice Swayne, speaking for the court, said:

"The conclusion to be deduced from the authorities is that, where power is given to public officers, in the language of the act before us, or in equivalent language--whenever the public interest or individual rights call for its exercise--the language \* \* \* though permissive in form, is in fact peremptory. What they are empowered to do for a third person the law requires shall be done. The power is given, not for their benefit, but for his. It is placed with the depositary to meet the demands of right, and to prevent a failure of justice. It is given as a remedy to those entitled to invoke its aid, and who would otherwise be remediless.

"In all such cases it is held that the intent \* \* \* which is the test, was not to devolve a mere discretion, but to impose 'a positive and absolute duty.'"

#### STATEMENT OF THE CASE

##### Nature of the Case

This de facto criminal action for expired registration was commenced in and on Main Street in Logan, Utah on September 4, 1987 by a police officer while impersonating an officer of the Circuit Court delivering to Thatcher a false Circuit Court judicial notice with numerous judicial titles and Circuit Court headings. A materially varied copy of the false judicial notice was filed by the policeman with the



Circuit Court. On October 28, 1987 the Court issued a Bench Warrant for Thatcher's arrest. Two days thereafter, on October 30, 1987 an Information was filed alleging a "failure to appear" city ordinance offense but omitted allegation of the "willful" element of the crime specified in the ordinance. No information was filed on the underlying expired registration charge until after the arrest, imprisonment and third arraignment.

On November 14, 1987 another Logan City police officer executed the "failure to appear" related "Bench" Warrant by arresting Thatcher in her parent's home, located well outside of Logan City's jurisdiction, by use of excessive force and expressly denied her right to counsel who was on the premises and gave no Miranda warning. She was booked, finger printed, jailed and released on \$100.00 bail. The only notice she had been given prior to arrest was the September 4th, 1987 false judicial notice. At the time of arrest on the Bench Warrant, no Information had been filed on the underlying expired registration charge.

Thatcher was arraigned on the "failure to appear" information on November 24, 1987 and no information had then been filed on the underlying expired registration charge. Through Counsel she pled not guilty, demanded a jury trial, and on advice that they would be witnesses, Circuit Court Judges Perry and Sorenson were disqualified as interested

witnesses. The arraignment was continued to December 1st so that a non-resident judge could be assigned and set a trial date. After the first arraignment where he was disqualified, Judge Perry directed the City Attorney to file an Information on the expired registration offense with no notice to Defendant. At the 12/1/87 continued arraignment, Judge Perry reported problems in locating an outside judge and suggested a withdrawal of the disqualification request. Thatcher refused, and Judge Perry directed filing of a written motion and affidavit on disqualification and continued the arraignment. Judge Perry said nothing about his 11/24/88 minute order for an Information on the expired registration count.

At the 12/8/87 continued arraignment, Thatcher filed a written confirmation of the earlier motion for disqualification of resident judges and motion for a speedy jury trial. Judge Perry set a jury trial date of 1/27/88 but made no mention in the record of his 11/24/87 order that the City Attorney file a new information and add the count on expired registration. However, on that same 12/8/88 date, his unannounced order of 11/24/87 for an Information filing on expired registration was complied with by the City Attorney and sworn to before disqualified Judge Sorenson. Judge Perry sent a copy of the amended information to

Thatcher's counsel on 12/10/87 with no suggestion of any need for arraignment on the new count or Information.

Pretrial was held on 1/15/88 where the scope of allowable evidence issue was raised by the City and the City formally moved to exclude evidence of the gross official ultra vires misconduct in the "processing" of the charges and raised as a due process denial defense. Except for Defendant's raising the need for arraignment on the new expired registration count on 1/15/88, there would have been no arraignment on the underlying charge. The City's motion to suppress Thatcher's statements to the arresting officer was granted on the grounds that no Miranda warning was given and she was denied her lawyer. It was not known what the arresting officer would claim she said. The 1/27/88 trial date was vacated over Defendant's objections and converted into another pretrial focusing on whether or not the official misconduct evidence should be excluded from the trial. Judge Baldwin took under advisement the City's motion to limit the misconduct evidence. In spite of Thatcher's and other repeated requests for a timely ruling and a speedy trial, it was not until 5/9/88 that the court decided to exclude all evidence of official procedural misconduct and ordered that the trial be strictly limited to one day on 6/15/88.

At the close of the evidence at the trial, Judge Baldwin dismissed the willful failure to appear count for lack of evidence of willfulness. He denied Thatcher's motion to dismiss the belated underlying expired registration count, and the jury returned a guilty verdict under the limited evidence and instructions. This appeal is from the judgment entered on that guilty verdict and from the Decision excluding evidence of denial of due process.

#### Statement of Facts

On September 4, 1987 Karen Thatcher was a petite, 19 year old high school graduate living at home with her parents and eight brothers and sisters in the Young Ward community south west of Logan.

She was driving a car registered in her father's name which she believed was "legal" because she had personally had it "inspected" at Christmas-time before going to Connecticut as a "nanny" and had recently returned home. On her noon time return home from "Wendy's" with the kids, she was stopped by Logan City Police Officer Lisonbee on South Main (Tr. 6/15/88 pg. 89-90).

Because she mistakenly believed that she had made the "car" legal, she was surprised as Lisonbee proceeded, in a rude manner, to give her a "ticket" on a standard printed Logan City form for expired registration (See R. pg. 1 also Add. A1). Lisonbee handed the "ticket" to Karen and

requested that she sign it. She examined it and told him it was very confusing on its face as to what it was and said she didn't intend to waive any rights as it stated. Karen asked him what he would do if she refused to sign the confusing "waiver." Lisonbee responded that he would then have to arrest her on the spot. She then signed as directed, took the violator's "SUMMONS" version and went home (Tr. 6/15-88 pgs. 87-92). Thatcher's "violator" version of the ticket (summons, etc.) had a full Circuit Court caption, was designated as a Summons both in the caption and the body in twelve places and an information in two places and above her signature purported that by signing she waived filing of an information. The contradictions were numerous (R. pg. 1 also Add. A1 & A2). The ticket bears no resemblance to the face of "citations" issued by the Highway Patrol and Cache Sheriff's Office (Add. A7 & A6). The ticket obviously exceeds the permitted wording for "citations" in 77-7-20 (i) & (j) and is an outrageous textbook example of on at least six separate grounds of a false judicial notice class B misdemeanor on its face under 76-8-513. It has a full court caption below a red print bold SUMMONS & INFORMATION plus a standard pleading title of SUMMONS with a court number on the violator's version and is captioned INFORMATION - AFFIDAVIT on the altered court and other copies.

On September 15th, a week before the appearance deadline, Karen went to a "Court House" and there renewed the expired registration (R. pg 104 also Add. B8). She returned home, mistakenly believing that she had complied with the confusing ticket and that the car was now fully legal again until Christmas-time inspection was due (Tr. 6/15/88 pg 93).

On Saturday morning, November 14, without any intervening notice or attempts at notice (Tr. 6/15/88 pgs 72-73) Thatcher was arrested in her home by a Logan City policeman, Walcott, on a Bench Warrant issued by Circuit Court Judge Perry. The arresting officer was acting outside his jurisdiction, made the arrest in the home with 9, mostly younger, family members observing. Officer Walcott denied her right to counsel who was across the street on the premises, tightly handcuffed her behind her back, and seat-belted her tightly into the car, causing welts and bruises on her wrists. As Walcott sped unlawfully off past her lawyer and to the jail, he questioned her without a Miranda warning as she wept from pain and fear.

Walcott explained that the big hurry was that he had come there expecting violent resistance, though there was only a request for counsel, which he summarily and repeatedly denied.

Her lawyer had called the jail before their arrival and been promised that the officer would call him upon arrival and before booking, but rather than do so, Walcott accelerated her place in the Perry Bench Warrant booking line on the pretext that it was a favor to get her through before her parents came to post bail. The jailer tried to console her weeping by stating that it was okay because it happened to lots of good people. However, when her parents came to post bail, a jailer recognized them and assured them that if the police had only known it was their daughter they would have called them, had them come in and post \$100 bail and avoided the unpleasant arrest and jailing. They also told Thatchers that they only get those kind of warrants from Judge Perry. See R. pg. 30-32, Karen Thatcher Affidavit; R. pg. 33-35, Sidney Thatcher Affidavit; R. pg. 36-38, David Daines Affidavit).

The events that transpired in the Circuit Court between Lisonbee's service of the ticket "Summons" citation and the November 14th, outrageous Bench Warrant arrest and imprisonment were admittedly done without any notice or attempts of notification to Thatcher or her well-known family (See Tr. 6/15/88 pgs. 72-73). The original signature copy of the ticket captioned INFORMATION - AFFIDAVIT was filed by Lisonbee with the Circuit Court, but the affidavit notarization was always blank.

On October 28th, the faulty form Bench Warrant was issued and endorsed for night service by Judge Perry and "x'ed" on the grounds of "failure to appear" (R. pg. 3). But it was two days later, on September 30, that a "failure to appear" Information was filed (R. pg.2).

The belated Information failed to allege the critical willful element in the failure to appear offense (Logan City Ordinance 44-15-32). The Information further alleged that Thatcher had been arrested and released on her promise to appear, which was another offense element and was known to be a patent falsity by all of the court personnel, policemen and prosecutors dealing with the whole ultra vires process. There was no information filed on the underlying expired registration charge until after the third arraignment session on December 8, 1987 at the initiation of Judge Perry after he had been disqualified as a witness.

Judge Perry presided at the three arraignment hearings on 11/24/87, 12/1/87, and 12/8/87. At the first hearing, he acknowledged his disqualification when advised that both he and Judge Sorenson would be principle witnesses on the due process denial defense. A not guilty plea was entered, and a speedy jury trial was demanded. No information was filed on the underlying expired registration charge until after the last arraignment on 12/8/87. However, on 11/24/87, after the first hearing, Perry discovered the critical



absence of a filed information on the underlying expired registration charge. This realization also illuminated to Perry a fatal flaw in the standard ultra vires practice. Though Thatcher had then appeared with counsel, Judge Perry, without notice to Thatcher or counsel and having disqualified himself, nevertheless judicially directed the City Attorney to file information on the expired registration count. Perry then conducted two subsequent arraignments with Thatcher and her counsel present without notifying any one that he had previously ordered a second information filed. It was on the same day as the last arraignment on 12/8/87 that Judge Sorenson presided over the City Attorney's compliance with Perry's judicial demand for prosecution of that most innocuous of all class C misdemeanors. Perry then, on 12/10/88 casually mailed the amended information to Thatcher's counsel as though it was simply a technical, non-substantive amendment on which arraignment had already taken place.

The jury trial was then unreasonably and prejudicially delayed without good cause from the first arraignment date when requested on 11/24/87 until finally held on 6/15/88. Judge Perry stretched his own estimation of timely trial to accommodate a non-resident judge as the later part of January and set the trial for 1/27/88. The assigned judge Baldwin, used the pretext of a simple issue determination to

unreasonably delay the trial. The file reflects repeated protests and demands of Thatcher and her counsel which were later joined, after further unreasonable delays, by protests from the City Attorney and the clerks of Circuit Court. Judge Baldwin delayed the trial for the stated reason that he had difficulty deciding whether or not to allow Thatcher to present to the jury the evidence related to her due process denial defense. There is substantial evidence that Judge Baldwin motive was to suppress the public airing and embarrassment to his colleagues whose conduct had denied due process.

Judge Baldwin, on the original trial date of 1/27/88 and on Thatcher's motion suppressed also arrest statements of Thatcher on the grounds that the arresting officer had not only not given the Miranda warning, but had also denied the requested right to seek the counsel of her attorney who was on the premises at the time. On 5/9/88 Judge Baldwin decided to exclude evidence of due process denial, and the trial was held on that basis on 6/15/88. At the close of the evidence, Judge Baldwin granted Thatcher's motion to dismiss the failure to appear count on the grounds of no evidence of willfulness. Baldwin, however, denied Thatcher's motion to dismiss the expired registration count and on the restricted evidence allowed, and the instructions given, Thatcher was convicted by the jury of that charge.

## SUMMARY OF ARGUMENTS

Thatcher's primary claim is that the court erred by eliminating defense evidence of the ultra vires unconstitutional practices employed by the City and Circuit Court in the prosecution of this and other similar cases. This error deprived Thatcher of due process, statutory rights and her right to a public jury trial on her valid defenses. The Court should have allowed all the due process denial evidence on both counts and at the close of the evidence should have granted Plaintiff's motion to dismiss both counts

Thatcher's other claims are that she was denied a speedy trial and that the state traffic citation enabling act is unconstitutional in denying due process because it permits citation wording which material and prejudicially misleads the cited citizens regarding their statutory and constitutional rights and liabilities and is unconstitutionally vague and authorizes a false judicial notice.

## ARGUMENT

- I. IT WAS GROSS ERROR TO EXCLUDE EVIDENCE OF MULTIPLE CRIMINAL AND ULTRA VIRES "COLOR OF OFFICE" ACTS AND PRACTICES COMMENCING WITH A FALSE JUDICIAL NOTICE OF EXPIRED REGISTRATION AND RESULTING IN THATCHER'S FALSE ARREST AND IMPRISONMENT FOLLOWED BY OTHER DUE PROCESS DENIALS. THATCHER WAS THUS DENIED BOTH LIBERTY AND PROPERTY WITHOUT DUE PROCESS; WAS DENIED A PUBLIC JURY TRIAL, AND STATUTORY PROTECTIONS BY GROSSLY OUTRAGEOUS OFFICIAL MISCONDUCT.

The ruling of the Court, excluding due process denial evidence at the jury trial denied Defendant's fundamental due process right to present all her defenses to the jury and she clearly has required standing:

"...The accused may challenge the validity of... practice, or policy involved in the course of criminal prosecution:" (16 C.J.S. Con. Law Sec. 73 pg. 201 & 202. Citing Berger vs. State of New York, N. Y., 87 S.Ct. 1873, 388 U.S. 41, 18 L.Ed. 2d 1040.)

Here the false judicial notice and false impersonation were the basis for the prosecution and the false arrest and false imprisonment were a consequence of the process.

"...The accused must show that his rights are adversely affected by it... (practice being challenged), whether or not it is the basis for the prosecution and such a showing is sufficient to support standing. (U. S. Gropi v. Wisconsin, 91 S.Ct. 490) (16C C.J.S. Con. Law Sec. 964 pg. 233)

The ultra vires practices here all violated the aforesaid private rights protective state statutes which inherently constitute a violation of due process.

"Due process may be effected by compliance as well as by non-compliance with a statute... or that the law (has) not been observed..." (16C C.J.S. Con. Law Sec. 964 pg. 233)

The outrageous false arrest and false imprisonment resulting from due process denials in this case demand the application of more extensive procedural safeguards than where less serious deprivations are involved.

"... the more serious the deprivation, (arrest, imprisonment) the more extensive the procedural safeguards which must precede its imposition... So the extent to which procedural due process must be afforded a person is influenced by the extent to which a person may be condemned to suffer a grievous loss (arrest, imprisonment)..." (16C C.J.S. Con. Law Sec. 967 pg. 248)

The ultra vires practices employed here were calculated to thwart rather than fulfill the purposes of the law. At a minimum degree of culpability, the practices were in reckless disregard of the statutory procedural rights of citizens in general, and Thatcher.

"The due process clauses require that a power conferred by law be exercised judiciously with an honest intent to fulfill the purpose of the law and it is a part of the judicial function to see that the requirement is met..." (16C C.J.S. Con. Law Sec 967 pg. 254)

The very most rigid standards of due process are applicable to criminal proceedings in general, and especially here, where the liberty interest was outrageously taken.

"In criminal matters, due process requirements must be rigidly adhered to. Whether defendant's constitutional right to due process of law has been infringed in a criminal prosecution will be determined on the particular facts of each case, but any substantial doubt as to a possible deprivation of due process of law must be resolved in favor of defendant." (16C C.J.S. Con. Law Sec. 992 pg. 350 & 351)

The ultra vires practices and standard ultra vires forms employed in this scheme are so far in violation of the

legal protections and requirements that it appears there was a calculated long-standing plan with the very purpose of short cutting every legal and statutory protection and process. The whole plan appears to have been so outrageous as to be unbelievable, thus making it difficult to retain credibility and present the outrageous facts as they are. The triggering mechanism for the scheme are police officers who have been lead to believe that they have the power on the streets of Logan to there commence a criminal action by filling out and serving a false judicial notice and concurrently there serve upon the violator a Summons that has the full force of that powerful judicial process. Incredibly, the City Attorney also believes his police officers possess these judicial powers.

The following excerpts are from the transcript of the trial and cross examination of Officer Lisonbee:

Q Do you have authority to serve a summons out on the road? Do you have authority to issue and serve a summons?

A Yes, sir.

Q You have authority to issue a summons?

A Yes, sir.

MR. BRADY: Object to the relevancy of that, your Honor.

THE COURT: Do you want to respond?

MR. DAINES: What?

THE COURT: Do you want to respond to the objection?

MR. DAINES: Well, I'd simply say that I'm establishing the true character of the document that he served, and--

THE COURT: Objection's overruled. You may answer.

MR. DAINES: Okay.

.....

Q (By Mr. Daines) Have you been through-- have you been through the POST training?

A Yes sir.

Q When did you go through POST training?

MR. BRADY: Object to the relevancy, your Honor.

THE COURT: Overruled.

Q (By Mr. Daines) When did you go through POST?

A 1984.

Q During POST training, were you--you have said that you consider that you had authority to issue a summons; were you so advised in POST training, that you have authority to issue a summons from the Circuit Court, State of Utah, County of Cache, in the Municipal Department of Logan City, Cache County, Utah?

MR. BRADY: Your Honor, I'm going to object to the relevance of that question. He's already testified that he's a duly qualified police officer, that he's got the authority to issue a summons, and that's what he did. I fail to see the relevancy of what he studied at POST.

THE COURT: You can answer that yes or no.

THE WITNESS: To the exact question, no, they did not tell me as a police officer of Logan City, County of Cache, you can. They stated yes, an officer in the State of Utah can.

Q (By Mr. Daines) Can issue a summons?

A Yes, sir.

Q Have you received any training within the Logan City Police Department that also tells you that you have authority to issue a summons in a criminal case?

A Not that I recall.

(Tr. 6/15/88, pgs. 45-47)

The simplest, most basic concepts of separation of powers dictate what is statutorily established in 77-35-1 - Z, that a police officer belongs to the executive branch and has no power to issue Summons, though he may serve the same. The unbelievability of what was happening under the practice is identified by the fact that the highway patrol and Cache

County Sheriff's Office, operating in the same community and through the same court and under the same State enabling legislation, avoided any claims to Summons issuance powers. See Add. A6 & A7. These open claims to judicial powers constitute a classic case of impersonation of a judicial officer calculated to induce others to submit to pretended official authority in violation of 76-8-512.

The most cursory examination of the tainted Logan City ticket, especially when compared with the Highway Patrol and Cache County Sheriff's form, exposes a classic case of the most blatant possible violation of 77-8-513 prohibiting delivery of a false judicial notice. The Highway Patrol form and Cache County sheriff's form, which also operate under 77-7-20 never once characterizes the citation as a Summons. Logan City's tainted ticket, on the other hand, among other judicial titles, characterizes itself as a Summons twice in the caption, four times in the body on the front of the ticket and six times on the back. Court headings and captions are carefully avoided on the Highway Patrol and Cache sheriff's citation forms. The Logan City form, however, has a detailed and complete circuit court title in the format prescribed for formal pleadings and process of the circuit court and in the caption has a number where case numbers are required in formal court pleadings and is obviously calculated to give the appearance that the



violator is a defendant in a case properly and legally filed in that court.

While the third point hereafter deals with the claim to unconstitutionality of the citation enabling act because it permits the use of the word "information," it is clear that the Logan City form exceeds even the bounds apparently allowed for the use of that judicial process term. The top heading designates the ticket as an "information" as well as the caption on the court copy. The outrageousness of the use of the title of "information" on the face of the ticket is exposed by the following statement on the reverse side: "This summons is not an information and will not be used as an information without your consent."

To compound the malicious inconsistencies on the face of the form, we examine its coercion in purporting to extract a consent that it may be used as an "information." On the face side now, above Karen Thatcher's signature which was extracted under the threat that if she did not sign it she would be arrested, is the statement explaining the dual purposes as both a "promise to appear" and a further agreement by her to waive the filing of a verified information and an election that the prosecution may proceed upon "this written summons to appear." This is the most blatant imaginable case of involuntary extraction of a consent and waiver of rights. What happened here, and in

all similar cases, was that the arresting officer actually threatened her that if she did not sign the promise to appear, which also included a waiver of her rights, that she would be arrested. There was no way within the form to avoid arrest and yet refuse to waive her rights. Put another way, if she didn't sign it she would be arrested and if she did sign it she would waive her rights.

The next step in the ultra vires process after the filing of the false judicial notice with the court and when the time passed for appearance was the issuance of the Bench Warrant from a printed form. See Add. B1. This form of process, whether issued as in this case before the filing of the Information for failure to appear or after the Information for failure to appear is so blatantly ultra vires and totally beyond the jurisdiction and authority of the court as to be obvious. Sections 78-32-1, 3 & 4 are the enabling acts for issuance of Bench Warrants. That power is strictly limited to bringing a party who is in contempt of court before the court for disposition of a contempt of court charge. Contempt must have been either in the immediate presence of the court or committed outside the presence of the court, but in contempt of a valid, court-issued summons or other court-issued process. It is obvious from the face of the Bench Warrant form utilized by the circuit court in this case that the alternative causes for

the issuance of a Bench Warrant which may be checked on that ultra vires form, are not even authorized or enabled by 78-32-1. The only possible conceivable basis for issuance of a warrant of arrest within this practice might be a warrant for arrest as an alternative to the issuance of a summons on the new and collateral failure to appear offense under 77-35-6. This section prescribes the circumstances under which a magistrate may cause to issue either a warrant for arrest or a summons for the appearance of the accused. It is clear from a reading of subsection B that the court could only have issued a warrant for arrest in this case upon a finding based on some evidence that the service of a summons, rather than a warrant, would have resulted in "substantial danger of breach of the peace or injuries to persons or property or danger to the community." It is clear that even if the judge had been following the proper procedure under that section, he did not have the evidentiary jurisdictional basis for the issuance of a warrant. We also argue that the judges endorsement allowing the warrant on a misdemeanor to be served at night must also be supported by some findings based on evidence. The other linkages in this ultra vires chain of practices include the total disregard of the underlying foundational offense once the charge of "failure to appear intervenes." Judge Perry mistakenly thought he could quietly correct this defect and even after his

disqualification and without notice to counsel. He judicially prosecuted the underlying charge long after the false arrest and imprisonment was effected under the color of authority of his ultra vires Bench Warrant.

Even though Karen Thatcher drove a car with an expired registration, the belated prosecution on that charge would not have occurred at all except for her plea of not guilty on the dependent failure to appear charge. This new added charge as a penalty for a not guilty plea, denied due process and constituted gross judicial misconduct wherein disqualified Judge Perry acted as a prosecutor.

"Substantial discretion traditionally accorded a prosecutor (but not a judge) in bringing defendant to trial on criminal charges is subject to the due process clause, which is a shield against unfair or deceptive treatment of accused by the government. Under the due process clause, defendant enjoys protection against discriminatory prosecutions and government (including judicial) misconduct, since the government may act in such a discriminatory fashion in its enforcement of the laws as to constitute a denial of due process. Due process principles can be invoked to bar the prosecution where it results from illegal law enforcement practices." (16C C.J.S. Con. Law Sec 993 pg. 354)

Even if there had been no official misconduct prior to Thatcher's first arraignment on the failure to appear charge Perry's initiation of prosecution at that point on the underlying offense has every appearance of vindictiveness to punish her for having pleaded not guilty

and therefore also offends due process especially where he was disqualified:

"Prosecutorial (and judicial) vindictiveness can be an affront to due process...

"...successive prosecutions for crimes arising out of the same transaction may constitute harassment in violation of due process...

The standard for determining prosecutorial vindictiveness, as bearing on due process rights of defendant, is whether there is a realistic likelihood of vindictiveness for the prosecutor's (or judges) augmentation of charges...

The presumption of an improper vindictive motive has been applied where a reasonable likelihood of vindictiveness exists." (16C C.J.S. Con. Law Sec 994 pg. 355 & 356 also Thigpen v. Roberts, Miss. 104 S.Ct. 2916.)

"To punish a person because he has done what the law plainly allows him to do (plead not guilty to failure to appear) is a due process violation of the most basic sort and the defendant's right to due process of law is violated where the prosecution increases the severity of the alleged charges in response to the exercise of a constitutional or statutory right." (16C C.J.S. Con. Law Sec. 994 pg. 356)

"In various instances it has been held that the government involvement in a criminal enterprise was so outrageous so as to violate the fundamental fairness, and the universal sense of justice mandated by the due process clause, while in other cases, the government involvement has been held not so outrageous as to constitute the violation of due process." (16C C.J.S. Con. Law Sec 995 pg. 357 & 358)

It is certainly possible that these unconstitutional practices involving repeated and regular misdemeanors of false impersonation, false judicial notices, ultra vires

warrants and false arrests and official misconduct for the apparent purpose of expeditious collection of fine and forfeiture revenues and for artificial self-serving enhancement of crime and jail loading statistics could be viewed as sufficiently outrageous to constitute a separate grounds for due process violations.

While it is clear that the Logan City ticket is a false judicial notice under 76-8-513 and exceeds the permitted verbiage of a citation under 77-7-20 its employment also constitutes the common law tort of an abuse or malicious abuse of process. There can be no doubt that the prohibited circuit court heading on the ticket and its repeated use of "Summons," Information and references that it may be the basis for issuance of a warrant were calculated to obtain a result to generate a type of fine and forfeiture generating fear, and false arrest and imprisonment which the legal "citation" was not intended by law to effect.

"It has been held that an "abuse" or "malicious abuse" of process is its employment to obtain a result which the process was not intended by law to effect. For purposes of this tort the word process may encompass a range of court procedures incident to the litigation. The tort is not limited to the issuance of process, but extends to its oppressive use after issuance." (72 C.J.S. Sec 106 PROCESS pg. 694)

In this case even the standard failure to appear Information filed October 30, 1987, two days after the Bench

Warrant had been issued, was so deficient that it totally failed to give the court jurisdiction of that proceeding. "Willfulness" of the non-appearance is the central and material element of the crime under both the Logan City ordinance charged here (Logan City Ordinance 42-15-32) as well as the state code version under 77-7-22. That ordinance and statutory key element is not even one of the allegations in the form information and there is no space for it on the form (R. pg. 2 also Add. B2). The ordinance offense also requires that there must have been an original arrest and a release on a written promise prior to the willful failure to appear crime.

42-15-32 Violation of Promise to Appear-- Misdemeanor.

(a) Any person wilfully violating his written promise to appear in court, given as provided in this code, is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested.

(b) A written promise to appear in court may be complied with by an appearance by counsel. (Logan City Ordinance 42-15-32)

Judge Perry, even after the filing of the information on October 30, acted in total absence of jurisdiction even on the failure to appear charge on the following independent grounds:

First, the Information failed to allege the ordinance required and central material element of "willfulness." An Information must allege all the material elements of the

crime before jurisdiction is conferred on the court under 77-35-4.

Secondly, while the Information, on its face, does allege that the Defendant had been arrested and released on her promise to appear, she in fact had not been arrested. In this case and in the context of the standard practices of the Logan City police department and the Circuit Court one is lead to the inevitable conclusion that the court and the complaining police officer knew as a matter of fact that the ticket had been issued in a run of the mill, no arrest, "citation" issuance scenario. The court cannot gain jurisdiction by accepting an Information statement of an element of the offense which the Court knows does not exist.

The most charitable view that one can possibly take of the state of the collective official minds that led to this unconscionable liberty and property extraction scheme is that they subjectively interpreted their statutory powers to provide the maximum possible expedience to their objectives of extracting money and liberty. They had to totally disregard citizens' rights' protective interpretations of these power enabling statutes. However, the law is clear that in this case of aggravated deprivation of liberty interests or where lesser protected common law property rights are being affected, the protection of those fundamental constitutional rights requires, in all cases,



strict and rigid statutory interpretations for the benefit of the citizens and protection of their rights rather than the officially expedient interpretation applied here by the officials with reckless self-serving abandon at as minimum degree of culpability.

The Supreme Court of the State of Utah has clearly enunciated this individual rights protective principle of interpretation in Deseret Savings Bank vs. Francis, 62 Utah 85, 217 P. 1114 (1923) quoting from Supervisors vs. U.S., 4 Wall 435, 18 L.Ed. 419 as follows:

"The conclusion to be deduced from the authorities is that, where power is given to public officers, in the language of the act before us, or in equivalent language -- whenever the public interest or individual rights call for its exercise -- the language\*\*\*though permissive in form, is in fact peremptory. What they are empowered to do for a third person the law requires shall be done. The power is given, not for their benefit, but for his. It is placed with the depositary to meet the demands of right, and to prevent a failure of justice. It is given as a remedy to those entitled to invoke its aid, and who would otherwise be remediless.

"In all such cases it is held that the intent\*\*\*which is the test, was not to devolve a mere discretion, but to impose 'a positive and absolute duty.'"

## II. THE COURT DENIED THATCHER'S RIGHT TO A SPEEDY JURY TRIAL.

Judge Perry responded to Thatcher's express written demand for a speedy jury trial by directing assignment of a non-resident judge for a jury trial in "late January." (R. pg. 11 Minutes) The trial was set on January 27, (R. pg. 16 Notice) and was continued by Judge Baldwin until June 15. He simply couldn't or wouldn't make up his mind as to whether he would allow Thatcher to present her extensive evidence and official adverse witnesses regarding her due process denial defenses. It took him until May 9th to rule to exclude the evidence. (R. pg. 64 & 65 Decision)

The erroneous reasons he gave for the belated exclusionary ruling suggest the true motives for both the unconscionable delay and the exclusions (R. pg. 64-65 Decision).

First, as Point I demonstrates, he erroneously, but successfully, shielded the implicated malfeasant subpoenaed public officials from a local public jury trial expose' of their very relevant, but gross official misconduct practices.

Secondly, he attempted to shunt those officially embarrassing due process defense proofs out of a jury trial and into (non-criminal) civil status as questions of law for a judge and not for a jury. Though he may have ruled in her favor, this maneuver would have denied Thatcher's right, in

a criminal case, to present all of her defense evidence to a jury of her peers regardless of the public embarrassment to the non-defendant officials who had been subpoenaed.

Thirdly, in his Decision, the Judge actually revealed his "official embarrassment" cover-up by excluding the evidence on the "grounds of prejudice, confusion, or a waste of time," in addition to its relevance (R. pg. 64 & 65 Decision).

It is fundamental that only prejudice (embarrassment) to the Defendant charged with the crime is grounds for exclusion of relevant evidence. Any prejudice (embarrassment) would have been to her uncharged official accusers and judges. His ruling was protecting officialdom from prejudice and embarrassment and had quite the opposite effect of "prejudicing" the charged Defendant.

In any event, Judge Baldwin spent two terms of court agonizing over whether he would allow a full dress expose' of gross misconduct of public officials in the very court rooms where they had and would likely continue to practice their judicial misconduct, or provide a cover for his colleagues. Agonizing as this decision must surely have been, it is clear that under these circumstances it was a denial of Karen Thatcher's constitutional right to a speedy jury trial. See Constitution of Utah, Art. I Sec. 12 and the U. S. Constitution Amendment VI.

III. THE CITATION ENABLING ACT IS SO PREJUDICIALLY MISLEADING AND VAGUE IN DESCRIBING RIGHTS AND LIABILITIES THAT ALL OR SUBSTANTIAL PORTIONS ARE UNCONSTITUTIONAL.

A careful analysis of the misdemeanor "citation" enabling act found in 77-7-18 to 23 and compared with 76-8-512 & 513 on false impersonation and false judicial notice crimes, demonstrates the fine line the legislature was trying to walk. Their primary objective was to enable non-judicial peace officers maximum public "scare" factor in inducing citation compliance. They faced constitutional invalidity should the "citation" content go over the line in its appearance as either a false "judicial" notice or create an inordinate and false fear that a warrant may issue even though unspecified statutory protective pre-conditions to warrant issuance must first be met. Under general law and 76-8-512 & 513 a peace officer could issue a citation or serve a summons previously issued by a court. However, he would be committing two class B misdemeanors if he were to claim (judicial) authority to issue a summons, complaint or information and deliver the same.

The first citation enabling section, 77-7-18 carefully avoids any judicial process terminology and stays exclusively with "citation." However, in 77-7-19 (4) the reference is to a "citation or information," the latter being a hard judicial process term though 77-7-20 (j) confusingly then requires wording that "This citation is not

an "information." To multiply the confusion, the preceding sub paragraph (i) classifies the notice as a citation, but then prescribes a whole series of alternative judicial process terms for the notice:

"I certify that a copy of this citation, or information (summons or complaint) was duly served..."

Then follows the following:

"READ CAREFULLY"

This citation is not an information and will not be used as an information.....

Section 77-7-21 compounds the inconsistency by clearly identifying an "information" as a separate and later process that may be filed with the Court if specified options are exercised by the citation recipient.

The Logan City traffic ticket form is so clearly a false judicial notice that its examination does little to aid in demonstrating the unconstitutional elements in the citation enabling act (Add. A1-A5).

The Highway Patrol citation (Add. A7), compared with the sheriff's form (Add. A6) reveal two divergent attempts to walk the fine line between a "citation" and a false judicial notice.

The Highway Patrol form excludes anything that may have the appearance of court captions or jurats that could be construed as indicia of judicial process. The enabling

statutes do not expressly address these indicia of judicial process, but the false judicial notice statutes inherently prohibits them. The sheriff's form raises a red or gray flag in this respect by highlighting a notary jurat which seems to have no purpose other than to create an unauthorized judicial process scare.

The Sheriff's office titles its ticket form, however, as a "CITATION INFORMATION." This clear incursion into judicial process terminology is expressly authorized by the unconstitutional enabling act (77-7-20) and directly conflicts with the letter and spirit of the false judicial notice statute (77-8-513).

In apparent recognition of this problem with the enabling act and presumably with the aid of the Attorney General, the Highway Patrol uses the title of "CITATION" only and does not use the legislatively authorized OR "INFORMATION" title.

The 77-7-20 legislatively authorized citation statement that, absent a timely appearance, an Information "will be filed" and that the court "may" issue an arrest warrant is a grossly misleading scare. A form of this false judicial threat is on the reverse side of all three police agency versions of the tickets (R. pg. 1).

An honest, straight forward due process reference as to what may transpire in the judicial processing of a failure

to appear on the ticket would need to contain the following statements in order not to be materially and prejudicially misleading to its recipients:

"Informations" may be filed on the offense charged and a separate failure to appear offense if you failed to appear as promised. Thereafter the court will issue a summons or, may upon finding probable risks of dangers, in lieu of a summons issue a warrant for your arrest."

Anything less is a material misleading scare violating due process. The "will" file an information statement gives the false impression that there is no prosecutorial discretion to refuse to prosecute under any circumstances. The commonly used option of giving non-judicial notices and demands is totally absence. The "warrant may issue" statement deceitfully omits the "summons" process which is the compulsory formal process absent a finding based on evidence of likelihood of dangers specified in 77-35-6 (b).

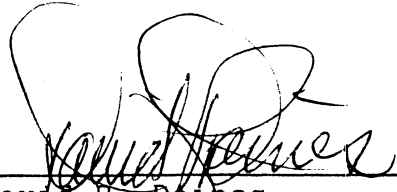
The insidious evil which this misleading legislation spawned is evident in the incredible false arrest and false imprisonment resulting in this case. It is likely that the police, prosecution and Judge Perry erroneously looked to this unconstitutional public scare tactic as enabling them to do what they did in this expedient, but ultra vires, fine and forfeiture collection and liberty extraction scheme. We will never know how many people out of the fear generated by these misleading judicial process words decided to pay fines

or forfeitures when they had a good defense. Bureaucratic economy and fiscal expedience cut deeply into fundamental individual constitutional rights under this legislation. What's worse is that because you really can't successfully fight a clearly wrong city hall, we will likely never know or be able to tabulate how many citizens have been falsely arrested and imprisoned by this malfeasant standard operating procedure.

#### CONCLUSION

This Court should render a judgment of not guilty on the expired registration offense on the grounds that Thatcher was denied due process of law, denied a speedy trial, and that the citation enabling statutes are unconstitutional in whole or part.

Respectfully submitted.



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David R. Daines  
Attorney for Defendant Appellant



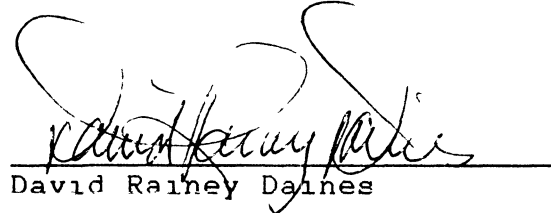
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CERTIFICATE OF DELIVERY

This is to certify that on this 13th day of October,  
1988 true and correct copies of the foregoing Brief of  
Appellant were delivered to the following:

Douglas Brady  
BARRETT AND BRADY  
300 South Main  
Logan, Utah 84321



David Rainey Daines

DRD:mt  
KT-008

Tab A

(RED PRINT) → **SUMMONS AND INFORMATION**

IN THE CIRCUIT COURT, STATE OF UTAH, COUNTY OF CACHE  
IN THE MUNICIPAL DEPARTMENT OF LOGAN CITY, CACHE COUNTY, UTAH 84321

No. C - 82546  
**SUMMONS**

(RED PRINT)

STATE OF UTAH }  
COUNTY OF CACHE } ss.  
CITY OF LOGAN }

The undersigned, being duly sworn, upon his oath deposes and says:

On the 4 day of Sept, 1987 at 4:01 ☐ A.M. ☒ P.M.  
Name Theresa L. Kavan  
Street 2674 West 100 South  
City Logan State Utah  
Age 19 Birth Date 4/13/68 Sex: ☐ Male ☒ Female  
Driv Lic No. 147128122 State Utah ☒ Oper. ☐ Chauff.  
Veh. Lic. No. AKW 029 State Utah Year 87  
Make VW Style GIF Color Blue  
Upon a public highway, namely at (location) 100 South main

did unlawfully operate the above described vehicle in the city, county and state aforesaid and did then and there commit the following offense:

Leading Causes of Accidents	SPEEDING	m.p.h. in	m.p.h. zone.	
	Improper LEFT TURN	<input type="checkbox"/> No signal	<input type="checkbox"/> Cut corner	<input type="checkbox"/> From wrong lane
	Improper RIGHT TURN	<input type="checkbox"/> No signal	<input type="checkbox"/> Into wrong lane	<input type="checkbox"/> From wrong lane
	<input type="checkbox"/> Disobeyed TRAFFIC CONTROL SIGNAL	<input type="checkbox"/> Flashing red <input type="checkbox"/> Steady red	<input type="checkbox"/> Improper backing <input type="checkbox"/> Too fast for existing conditions	
	Disobeyed STOP SIGN	<input type="checkbox"/> Wrong place	<input type="checkbox"/> Walk speed	<input type="checkbox"/> Faster
	Improper PASSING	<input type="checkbox"/> At Intersection <input type="checkbox"/> At Ped. X walk	<input type="checkbox"/> Cut in <input type="checkbox"/> Across physical bar.	<input type="checkbox"/> Wrong lane <input type="checkbox"/> On right
	FAILURE TO YIELD	<input type="checkbox"/> Ped. <input type="checkbox"/> Veh.	FOLLOWING TOO CLOSELY <input type="checkbox"/>	
	Other violations: (describe) <u>62-15-36</u> <u>Expired Registration 7/87</u>			
	in violation of the (State Statute) (City Ordinance) in such case made and provided.			

Conditions that Increased Seriousness of Violation	SLIPPERY PAVEMENT	<input type="checkbox"/> Rain <input type="checkbox"/> Snow <input type="checkbox"/> Ice	CAUSED PERSON TO DODGE <input type="checkbox"/> Pedestrian <input type="checkbox"/> Driver JUST MISSED ACCIDENT	Type Accident <input type="checkbox"/> PD <input type="checkbox"/> PI <input type="checkbox"/> Fatal <input type="checkbox"/> Ped. <input type="checkbox"/> Veh <input type="checkbox"/> Hit fixed object <input type="checkbox"/> Right Angle <input type="checkbox"/> Head on <input type="checkbox"/> Sideswipe <input type="checkbox"/> Ran off Road <input type="checkbox"/> Intersection <input type="checkbox"/> Rear end
	DARKNESS	<input type="checkbox"/> Night <input type="checkbox"/> Fog <input type="checkbox"/> Snow		
	OTHER TRAFFIC PRESENT	<input type="checkbox"/> Cross <input type="checkbox"/> Oncoming <input type="checkbox"/> Pedestrian <input type="checkbox"/> Same Direction		
	AREA:	<input type="checkbox"/> Business <input type="checkbox"/> Industrial <input type="checkbox"/> School <input type="checkbox"/> Residential		
	HIGHWAY TYPE:	<input type="checkbox"/> 2 lane <input type="checkbox"/> 3 lane <input type="checkbox"/> 4 lane <input checked="" type="checkbox"/> 4 lane divided		

I certify that a copy of this summons was duly served upon the defendant according to law on the above date and I know or believe and so allege that the above-named defendant did commit the offense herein set forth contrary to law. I further certify that the court to which the defendant has been directed to appear is the proper court pursuant to Section 77-7-21 (SK. 77-7-19).

Sworn and subscribed to before me

this 18 day of Sept, 1987

Circuit Judge

(Signature and identification of officer or other complainant)

COURT APPEARANCE: 18 day of Sept, 1987 at 10 ☒ A.M. ☐ P.M.

ADDRESS OF COURT & CLERK OFFICE: 140 NORTH 1ST WEST LOGAN, UTAH

I PROMISE TO APPEAR IN SAID COURT OR BEFORE AT SAID TIME AND PLACE to answer to the above charge, and further agree to waive the filing of a verified information and elect that the prosecution may proceed upon this written summons to appear.

Name

Last

First

Middle

No. C - 82546

(Red Print)

**INSTRUCTIONS — READ CAREFULLY.**

**SIGNING THIS SUMMONS IS NOT AN ADMISSION OF GUILT. HOWEVER, IF YOU REFUSE TO SIGN, THE OFFICER MUST TAKE YOU INTO CUSTODY WHERE YOU MUST POST BAIL BEFORE YOU WILL BE RELEASED.**

Before entering Court you must present your copy of the summons to the Clerk of the Court at which time you will be instructed as to whether the violation charged may be disposed of by posting bail or forfeiting bail. If bail can be forfeited to dispose of the charge you may post the bail on or before the court appearance date on your summons during the regular hours of the Clerk's office.

If you disagree with the charges or are so instructed by the Clerk you must personally appear, or by counsel appear, in Circuit Court at the date and time indicated by the officer on the summons, and enter a plea of "NOT GUILTY" and a trial date will be set.

If you forfeit bail or enter a plea of guilty in Court or are found guilty after a trial, the forfeiture or conviction will be reported on all moving violations to the State Department of Public Safety, Driver's License Division, and will be recorded against your driving record.

This summons is not an information and will not be used as an information without your consent. If an information is filed you will be provided a copy by the court. You MUST appear in court on or before the date and time set in this summons. IF YOU FAIL TO APPEAR, AN INFORMATION WILL BE FILED AND THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST. FAILURE TO APPEAR as promised on the reverse side hereof or failure to post bail on or before such appearance date, where forfeitures are permitted, constitutes a separate and additional offense, a misdemeanor, for which the law provides a penalty up to 6 months in jail or \$299.00 fine or both.

COURT ACTION: Fine \$ \_\_\_\_\_ Suspended \$ \_\_\_\_\_

\_\_\_\_\_ days in County Jail \_\_\_\_\_ days suspended.

Delay in execution to the \_\_\_\_\_ day of \_\_\_\_\_ 198 \_\_\_\_\_

Trial Date \_\_\_\_\_ day of \_\_\_\_\_ 198 \_\_\_\_\_ at \_\_\_\_\_ ☐ a.m. \_\_\_\_\_ ☐ p.m.

Bail set \$ \_\_\_\_\_ Bail Forfeited \_\_\_\_\_

Receipt No. \_\_\_\_\_ Date \_\_\_\_\_ Amount \$ \_\_\_\_\_

CIRCUIT COURT: 140 NORTH 1ST WEST  
Logan, Utah 84321

Clerk Office Hours:  
8:00 a.m. to 5:00 p.m.  
Mondays through Fridays  
except legal holidays.

IN THE CIRCUIT COURT, STATE OF UTAH, COUNTY OF CACHE  
IN THE MUNICIPAL DEPARTMENT OF LOGAN CITY, CACHE COUNTY, UTAH 84321

# SUMMONS AND INFORMATION

IN THE CIRCUIT COURT, STATE OF UTAH, COUNTY OF Cache  
IN THE MUNICIPAL DEPARTMENT OF LOGAN CITY, CACHE COUNTY, UTAH 84321

No. C - 82546

STATE OF UTAH }  
COUNTY OF CACHE } ss.  
CITY OF LOGAN }

## INFORMATION - AFFIDAVIT

The undersigned, being duly sworn, upon his oath deposes and says:

On the 4 day of Sept, 1987 at 4:01 ☐ A.M. ☒ P.M.  
Name Thatcher Karen  
Street 2694 West 1800 South  
City Logan State Utah  
Age 19 Birth Date 4/3/68 Sex: ☐ Male ☒ Female  
Driv. Lic. No. 147128133 State Utah ☒ Oper. ☐ Chauff.  
Veh. Lic. No. AKW 029 State Utah Year 87  
Make VW Style Golf Color Black  
Upon a public highway, namely at (location) 180 South main

did unlawfully operate the above described vehicle in the city, county and state aforesaid and did then and there commit the following offense:

Leading Causes of Accidents	SPEEDING	m.p.h. in	m.p.h. zone.
	Improper LEFT TURN	<input type="checkbox"/> No signal	<input type="checkbox"/> Cut corner <input type="checkbox"/> From wrong lane
	Improper RIGHT TURN	<input type="checkbox"/> No signal	<input type="checkbox"/> Into wrong lane <input type="checkbox"/> From wrong lane
	<input type="checkbox"/> Disobeyed TRAFFIC CONTROL SIGNAL	<input type="checkbox"/> Flashing red <input type="checkbox"/> Steady red	<input type="checkbox"/> Improper backing <input type="checkbox"/> Too fast for existing conditions
	Disobeyed STOP SIGN	<input type="checkbox"/> Wrong place	<input type="checkbox"/> Walk speed <input type="checkbox"/> Faster
	Improper PASSING	<input type="checkbox"/> At Intersection <input type="checkbox"/> At Ped. X walk	<input type="checkbox"/> Cut in <input type="checkbox"/> Across physical bar. <input type="checkbox"/> Wrong lane <input type="checkbox"/> On right
	FAILURE TO YIELD	<input type="checkbox"/> Ped. <input type="checkbox"/> Veh.	FOLLOWING TOO CLOSELY <input type="checkbox"/>
Other violations: (describe) <u>Expired Registration 7/87</u>			

Conditions that Increased Seriousness of Violation	SLIPPERY PAVEMENT	<input type="checkbox"/> Rain <input type="checkbox"/> Snow <input type="checkbox"/> Ice	Type Accident	<input type="checkbox"/> Ped. <input type="checkbox"/> Veh. <input type="checkbox"/> Hit fixed object <input type="checkbox"/> Right Angle
	DARKNESS	<input type="checkbox"/> Night <input type="checkbox"/> Fog <input type="checkbox"/> Snow		<input type="checkbox"/> Head on <input type="checkbox"/> Sideswipe <input type="checkbox"/> Ran off Road <input type="checkbox"/> Intersection <input type="checkbox"/> Rear end
	OTHER TRAFFIC PRESENT	<input type="checkbox"/> Crossing <input type="checkbox"/> Oncoming <input type="checkbox"/> Pedestrian <input type="checkbox"/> Same Direction		
	AREA: <input type="checkbox"/> Business <input type="checkbox"/> Industrial <input type="checkbox"/> School <input type="checkbox"/> Residential			
HIGHWAY TYPE: <input type="checkbox"/> 2 lane <input type="checkbox"/> 3 lane <input type="checkbox"/> 4 lane <input checked="" type="checkbox"/> 1 lane divided				

I certify that a copy of this summons was duly served upon the defendant according to law on the above date and I know or believe and so allege that the above-named defendant did commit the offense herein set forth contrary to law. I further certify that the court to which the defendant has been directed to appear is the proper court pursuant to Section 77-7-21 (SK. 77-7-19).

Sworn and subscribed to before me

this 18 day of Sept, 1987

Circuit Judge

(Signature and identification of officer or other complainant)

COURT APPEARANCE: 18 day of Sept, 1987 at 4 ☒ A.M. ☐ P.M.

ADDRESS OF COURT & CLERK OFFICE: 140 NORTH 1ST WEST LOGAN, UTAH

I PROMISE TO APPEAR IN SAID COURT OR BUREAU AT SAID TIME AND PLACE to answer to the above charge, and further agree to waive the filing of a verified information and elect that the

Name

Last

First

Middle

No. C - 82546

**SUMMONS AND INFORMATION**

**IE CIRCUIT COURT, STATE OF UTAH, COUNTY OF C**  
**IN THE MUNICIPAL DEPARTMENT OF LOGAN CITY, CACHE COUNTY, UTAH 84321**

**No. C - 82546**

STATE OF UTAH }  
 COUNTY OF CACHE } ss.  
 CITY OF LOGAN }

**INFORMATION - AFFIDAVIT**

The undersigned, being duly sworn, upon his oath deposes and says:

On the 4 day of Sept, 1987 at 4:01 ☐ A.M. ☒ P.M.  
 Name Thatcher, Karen  
 Street 2674 West 1500 South  
 City Logan State Utah  
 Age 17 Birth Date 4/13/68 Sex: ☐ Male ☒ Female  
 Driv. Lic. No. 147128123 State Utah ☐ Oper. ☒ Chauff.  
 Veh. Lic. No. 4KW027 State Utah Year 81  
 Make VW Style Golf Color Black  
 Upon a public highway, namely at (location) 180 South main

did unlawfully operate the above described vehicle in the city, county and state aforesaid and did then and there commit the following offense:

Leading Causes of Accidents	SPEEDING	m.p.h. in	m.p.h. zone.
	Improper LEFT TURN	<input type="checkbox"/> No signal	<input type="checkbox"/> Cut corner <input type="checkbox"/> From wrong lane
	Improper RIGHT TURN	<input type="checkbox"/> No signal	<input type="checkbox"/> Into wrong lane <input type="checkbox"/> From wrong lane
	<input type="checkbox"/> Disobeyed TRAFFIC CONTROL SIGNAL	<input type="checkbox"/> Flashing red <input type="checkbox"/> Steady red	<input type="checkbox"/> Improper backing <input type="checkbox"/> Too fast for existing conditions
	Disobeyed STOP SIGN	<input type="checkbox"/> Wrong place	<input type="checkbox"/> Walk speed <input type="checkbox"/> Faster
	Improper PASSING	<input type="checkbox"/> At Intersection <input type="checkbox"/> At Ped. X walk	<input type="checkbox"/> Cut in <input type="checkbox"/> Across physical bar. <input type="checkbox"/> Wrong lane <input type="checkbox"/> On right
	FAILURE TO YIELD	<input type="checkbox"/> Ped. <input type="checkbox"/> Veh.	FOLLOWING TOO CLOSELY <input type="checkbox"/>
Other violations: (describe) <u>42-15-36</u> <u>Expired Registration 7/81</u> in violation of the (State Statute) (City Ordinance) in such case made and provided.			

Conditions that Increased Seriousness of Violation	SLIPPERY PAVEMENT	<input type="checkbox"/> Rain <input type="checkbox"/> Snow <input type="checkbox"/> Ice	CAUSED PERSON TO DODGE <input type="checkbox"/> Pedestrian <input checked="" type="checkbox"/> Driver JUST MISSED ACCIDENT	Type Accident <input type="checkbox"/> Head on <input type="checkbox"/> Sideswipe <input type="checkbox"/> Ran off Road <input type="checkbox"/> Intersection <input type="checkbox"/> Rear end
	DARKNESS	<input type="checkbox"/> Night <input type="checkbox"/> Fog <input type="checkbox"/> Snow		
	OTHER TRAFFIC PRESENT	<input type="checkbox"/> Cross Oncoming <input type="checkbox"/> Pedestrian <input type="checkbox"/> Same Direction		
	AREA: <input checked="" type="checkbox"/> Business <input type="checkbox"/> Industrial <input type="checkbox"/> School <input type="checkbox"/> Residential			
HIGHWAY TYPE: <input type="checkbox"/> 2 lane <input type="checkbox"/> 3 lane <input type="checkbox"/> 4 lane <input checked="" type="checkbox"/> 3 lane divided				

I certify that a copy of this summons was duly served upon the defendant according to law on the above date and I know or believe and so allege that the above-named defendant did commit the offense herein set forth contrary to law. I further certify that the court to which the defendant has been directed to appear is the proper court pursuant to Section 77-7-21 (SK. 77-7-19).

Sworn and subscribed to before me

this \_\_\_\_\_ day of \_\_\_\_\_ 1987  
 \_\_\_\_\_  
 Circuit Judge (Signature and identification of officer or other complainant)

COURT APPEARANCE: 18 day of Sept, 1987 at 10 ☒ A.M. ☐ P.M.

ADDRESS OF COURT & CLERK OFFICE: 140 NORTH 1ST WEST LOGAN, UTAH  
 PROMISE TO APPEAR IN SAID COURT OR BUREAU AT SAID TIME AND PLACE to answer to the above charge, and further agree to waive the filing of a verified information and elect that the prosecution may proceed upon this written summons to appear.

Name \_\_\_\_\_  
 Last \_\_\_\_\_  
 First \_\_\_\_\_  
 Middle \_\_\_\_\_

**No. C - 82546**

[illegible]



STATE OF UTAH  
COUNTY OF CACHE

752-6843

THE DEFENDANT IS HEREBY  
GIVEN NOTICE TO APPEAR BEFORE

JUDGE Circuit Judge

LOCATED AT 140 North 100 West

ON OR BEFORE THE 22nd DAY OF

January, 19 88

AT THE HOUR OF 9:00 AM P.M.

IN THE Logan Circuit COURT.

CACHE COUNTY SHERIFF'S OFFICE

UNIFORM CITATION OR INFORMATION  
AND NOTICE TO APPEAR

CASE NO.

882000294

CITATION NO.

A456817

Name (Last) Brown, (First) Robert, (Middle) H.

Address (City) 700 South 200 West + 1, (State) Utah, (Zip) 84321 Phone

Place of Birth DOB 6-10-61 Social Security Number 528 11-7277 Ht. 6-2 Wt. 150 Hair Brn Eyes Brn Race W (M) F

Driver License No. 1538454 State UT Vehicle License No. 2462 AA State UT Expires 11/87

Picture ID Yes Vehicle Color Black Vehicle Year 1985 Vehicle Make Ford Type Truck Model F-150 Accident Y (N) F

THE ABOVE NAMED DEFENDANT IS CHARGED WITH VIOLATING:

UT	CO	CY		Code #	Misd. Cit.	Traf.
X			Speed	41-6-16		X
X			Expired Registration	41-1-18		X

Location SR 89/91, College Ward Mile Post No. 22 Interstate Yes No Direction N S E W

Date 13 January, 19 88 Military Time 0616 Speeding 69 in a 55 zone MPH Over 14

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AS DIRECTED HEREIN:

SIGNATURE X [Signature]

I CERTIFY THAT COPY OF THIS CITATION OR INFORMATION WAS DULY SERVED UPON THE DEFENDANT ACCORDING TO LAW ON THE ABOVE DATE AND I KNOW OR BELIEVE AND SO ALLEGE THAT THE ABOVE NAMED DEFENDANT DID COMMIT THE OFFENSE HEREIN SET FORTH CONTRARY TO LAW. I FURTHER CERTIFY THAT THE COURT TO WHICH THE DEFENDANT HAS BEEN DIRECTED TO APPEAR IS THE PROPER COURT PURSUANT TO SECTION 77-7-19.

OFFICER C. Williamson ID # 23

COMPLAINANT \_\_\_\_\_ ID # \_\_\_\_\_

DATE \_\_\_\_\_, 19 \_\_\_\_\_

MISD. CIT.—BCI  
TRAFFIC—COURT

Date Sent to DLD

Docket No.

RIGHT INDEX

FOR COURT USE ONLY

DATE OF CONVICTION/FORFEITURE \_\_\_\_\_

FINE \_\_\_\_\_ SUSPENDED \_\_\_\_\_

JAIL \_\_\_\_\_ SUSPENDED \_\_\_\_\_

PLEA/FINDING

- ☐ Guilty
- ☐ No Contest
- ☐ Not Guilty
- ☐ Forfeited Bail

SEVERITY

- ☐ Minimum
- ☐ Intermediate
- ☐ Maximum

Signature of Judge or Clerk Required

DLD  
USE

UNIFORM CITATION AND  
NOTICE TO APPEAR



☒ STATE OF UTAH

☒ COUNTY OF CACHE

☐ CITY OF \_\_\_\_\_

752-6893  
THE DEFENDANT IS HEREBY  
GIVEN NOTICE TO APPEAR IN:

COURT OF Logan Circuit

LOCATED AT 140 N. 100 W.

Logan UT 84321

Not less than (5) five nor more than (14) fourteen days after issuance of  
this citation, (see reverse side of defendant's copy for bail forfeiture  
information).

FOR COURT USE ONLY

DATE OF CONVICTION/FORFEITURE \_\_\_\_\_

FINE \_\_\_\_\_ SUSPENDED \_\_\_\_\_

JAIL \_\_\_\_\_ SUSPENDED \_\_\_\_\_

PLEA/FINDING

SEVERITY

- ☐ Guilty  
☐ No Contest  
☐ Not Guilty  
☐ Forfeited Bail

- ☐ Minimum  
☐ Intermediate  
☐ Maximum

ISSUED  
BY:

UTAH HIGHWAY PATROL

CITATION NO.

B 262294

NAME (Last)

(First)

(Middle)

DOB

ADDRESS

(City)

(State)

ZIP

Driver License No.

State

Vehicle License No.

State

Expires

Vehicle Color

Vehicle Year

Vehicle Make

Type

Accident  
R N

Di  
N 3 W

THE ABOVE NAMED DEFENDANT IS CHARGED WITH VIOLATING:

☒ UTAH CODE

☐ COUNTY CODE

☐ CITY CODE

NO: 41-6-46

ON Thurs THE 7 DAY OF Jan, 19 88

MILITARY TIME 1735

LOCATION Police Ward 5K 91

MILE POST NO. \_\_\_\_\_

VIOLATION(S): Speeding

Speeding

70 mph in a 55 Zone

MPH  
OVER 15

INTERSTATE: ☐ YES ☒ NO

STOP SIGN  
F S

WITHOUT ADMITTING GUILT I PROMISE TO APPEAR AS DIRECTED HEREIN:

SIGNATURE

I CERTIFY THAT A COPY OF THIS CITATION OR INFORMATION (SUMMONS AND COMPLAINT) WAS DULY SERVED UPON THE DE-  
FENDANT ACCORDING TO LAW ON THE ABOVE DATE AND I KNOW OR BELIEVE AND SO ALLEGE THAT THE ABOVE NAMED DEFEN-  
DANT DID COMMIT THE OFFENSE HEREIN SET FORTH CONTRARY TO LAW. I FURTHER CERTIFY THAT THE COURT TO WHICH THE  
DANT HAS BEEN DIRECTED TO APPEAR IS THE PROPER COURT PURSUANT TO SECTION 77-7-21 (77-7-19).

OFFICER

BADGE # 277

DATE

A.D. 19 \_\_\_\_\_

DLD  
USE

DEFENDANT COPY

DATE SENT TO DLD

DOCKET NO.

Tab B

LC PD

SECOND CIRCUIT 000  
ORIGINAL

# Circuit Court, State of Utah

CACHE COUNTY, LOGAN DEPARTMENT

LOGAN CITY

Plaintiff

BENCH

WARRANT

vs.

880451CA

KAREN THATCHER

Defendant(s)

No.

82546

2694 W 1800 S

LOGAN

UT. 84321

THE STATE OF UTAH TO ANY PEACE OFFICER IN THE STATE OF UTAH:

The above-named defendant failed to appear on the date of 9/18/87  
in violation of:

- ☐ Defendant's obligation to appear for ☐ arraignment; ☐ trial; ☐ sentencing.
- ☒ A written promise to appear.
- ☐ A summons.
- ☐ A court order requiring defendant to appear for supplemental hearing, or an order to show cause.

YOU ARE THEREFORE COMMANDED to arrest the above-named defendant forthwith and bring him before this court; or if the court has adjourned, to deliver him to the custody of the sheriff of the above-named county until the court is next in session.

Bail is set in the amount of \$ 100.00 . The warrant is returnable on the first Tuesday after execution at 9 AM, and defendant is ordered to appear on said date.

Issued under the seal of this court on the date of 10/28/87

This warrant may be served day  
or night.

Circuit Judge

BY ORDER OF THE COURT  
Clerk of the Circuit Court

By J. Burkholder  
Deputy Clerk

## RETURN OF SERVICE

I received the above bench warrant on the date of 11-13-87, and served the same by arresting the defendant and bringing the defendant to the county jail of the above county on the date of

IN THE CIRCUIT COURT, STATE OF UTAH  
COUNTY OF CACHE, LOGAN CITY DEPARTMENT

---

LOGAN CITY,

880451-CA

Plaintiff

)

I N F O R M A T I O N

vs.

No. 82546

KAREN THATCHER

Defendant

)

The undersigned, under oath, states on information and belief that the above named Defendant committed the crime of FAILURE TO APPEAR, a Class C Misdemeanor, at Logan, Utah, on 9/18/87 in violation of Section 42-15-32 of the Revised Ordinances of Logan City.

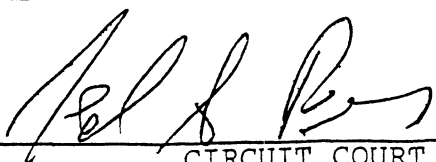
The acts of the Defendant constituting the offense are as follows:

That the Defendant did give a written promise to appear in the Circuit Court, State of Utah, County of Cache, on or before the date above listed after having been arrested for a violation of the Logan City Code, and did fail to appear in said Court on or before said date.

This information is based on evidence obtained from the following witnesses:

  
COMPLAINANT

Subscribed and sworn to before me this 30 day of Oct, 1987.

  
CIRCUIT COURT JUDGE

872001564

Cache County Sheriff's Office  
Jail Division  
Bail Receipt Number : 2671

880451-CA

I, Richards D, hereby certify that on 11/14/87  
I received from Syde Thatcher the amount  
of \$100.00 as a bond pending the appearance of  
Karen Thatcher in the 2ND CIRCLUG  
on 11/24/87 at 09:00, to answer to the charge(s) stated below and  
at all times thereafter to hold himself amenable to the order and  
process of the court.

OFFENSES:

=====


Date	Statute Code	Offense Description	Bail Amount
11/14/87	42-17-1b	Fail-Appear, Traffic	\$100.00

6-15-88 - Cash Bail of \$5<sup>00</sup>  
refunded - Ck 2620

6-16-88 - Cash Bail of 25<sup>00</sup>  
applied to fine  
Ck 2621

Sid Groll  
Sheriff

By

  
( Richards D )

IN THE CIRCUIT COURT, STATE OF UTAH  
COUNTY OF CACHE, LOGAN CITY DEPARTMENT

LOGAN CITY,

)

Plaintiff

I N F O R M A T I O N

vs.

)

880451-CA

THATCHER, Karen L.  
2694 West 1800 South  
Logan, Utah  
4/3/68

Defendant

)

The undersigned, ALAN NELSON under oath, states on the information and belief that the above named Defendant committed the crime(s) of:  
COUNT 1: EXPIRED REGISTRATION (CLASS C MISDEMEANOR)  
COUNT 2: FAILURE TO APPEAR (CLASS B MISDEMEANOR)  
at Logan, Utah on 9/4/87 & 11/5/87 in violation of the following sections of the Revised Ordinances of Logan City:  
42/15/36 42/17/1(b)

That, contrary to Logan City Ordinances, Defendant's acts constituting the offense were:

COUNT 1: That the Defendant did drive or permit a motor vehicle to be driven, stopped or parked on the streets or alleys of the City of Logan without vehicle displaying in proper position valid and unexpired registration plates or indication of registration meeting the requirements of the laws of the State of Utah. Class C Misdemeanor  
COUNT 2: That, contrary to the ordinances of Logan City, the Defendant failed to appear before the Judge of the Circuit Court, Logan City Department, after having given written promise to appear at said Court on the 18th day of September, 1987 at 10:00 am, to an officer upon arrest for a traffic violation. Class B Misdemeanor  
This information is based on evidence obtained from the following witnesses:

J. LISONBEE LCPD  
J. Bahadori

Authorized for presentment & filing

  
COMPLAINANT

  
Logan City Prosecutor/Attorney

Subscribed & sworn to before me  
this 8 day of Dec 1987

DAMAGES: YES

NO

  
CIRCUIT COURT JUDGE

SECOND CIRCUIT COURT, STATE OF UTAH  
COUNTY OF CACHE, LOGAN CITY DEPARTMENT

140 NORTH 1ST WEST  
P.O. BOX 291  
LOGAN, UTAH 84321

THEODORE S. PERRY, JUDGE  
DAVID W. SORENSON, JUDGE

ARLENE HUTCHISON, CLERK OF THE COURT  
TELEPHONE NUMBERS: 801-752-6893  
801-752-6894

December 10, 1987 801-752-6895

Attorney David R. Daines  
UTAH STATE UNIVERSITY Box 1328  
LOGAN, UTAH, 84321

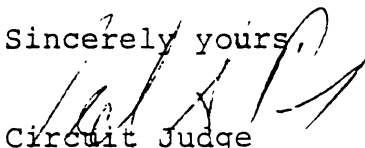
88 0451-CA

Dear Attorney Daines:

Enclosed find a copy of the amended information filed in the case of Logan City v. Karen L. Thatcher No. 87 2001 564 which combines the offense on the citation of expired registration with the original failure to appear information filed October 30, 1987.

The matter is set for trial on Wednesday, January 27, 1988 at 9:00 a.m. A formal written request for a jury is on file.

Sincerely yours,

  
Circuit Judge

City AH  
Judge B. H. H. H.



DAVID RAINEY DAINES  
ATTORNEY-AT-LAW  
USU BOX 1228  
LOGAN, UTAH 84322  
Telephone (801) 753-2721

880451-CA

March 25, 1988

Judge Parley R. Baldwin  
Circuit Judge  
2605 Washington Boulevard  
Ogden, Utah 84401

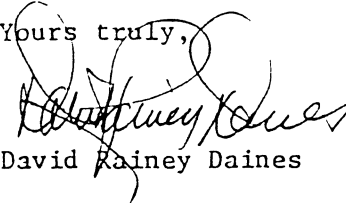
Re: Logan City vs. Karen Thatcher in Logan, Cache, Utah Circuit Court;  
Criminal No. 82546.

Dear Judge Baldwin:

The above entitled case was set for a jury trial and continued without date with the understanding that when you made certain rulings on the scope of relevant admissible evidence you would arrange for a trial setting. I am wondering if somehow you may have overlooked this matter which is extremely urgent to my client.

As I have explained clearly to you, we consider that these inordinate delays have and are continuing to deny my client her right to speedy jury trial. I would appreciate hearing from you regarding these matters.

Yours truly,

  
David Rainey Daines

SW

pc: ✓ Scott Barrett  
Nelda Hollingsworth

Doug -

received from  
vg Brady  
3-28-88

FIRST CIRCUIT COURT, STATE OF UTAH, 880451-CA  
LOGAN DEPARTMENT

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LOGAN CITY,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	D E C I S I O N
	)	
KAREN THATCHER,	)	Civil No: 82546
	)	
Defendant.	)	

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The remaining preliminary matter before the Court, prior to the jury trial on the Information alleging expired registration and failure to appear, deals with plaintiff's motion to restrict evidence and testimony, solely to the allegations that the defendant operated a vehicle in Logan City with an expired registration and failed to appear.

The Court has heard the proffer and the theories of the defense as presented by defendant's counsel. Counsel has expressed a desire to present evidence to the jury as it relates to the procedures in issuing warrants for arrest, the contents of citations, the Judiciary's interference or participation and other matters that relate primarily to actions taken which have little, if anything, to do with whether or not the defendant violated the expired registration and/or failure to appear laws.

Logan City vs. Karen Thatcher  
Case No: 82546  
Page Two

880451-CA

Defects to which counsel has addressed are matters of law which are to be ruled on by the Court when properly presented and are not in the scope of the jury's fact finding mission.

At the trial, to be held before a jury, the Court and jury will hear the relevant evidence as set out in Rule 401 and 402 of the Utah Rules of Evidence. Further, the parties will be restricted by Rule 403 which provides for the exclusion of relevant evidence on grounds of prejudice, confusion, or waste of time.

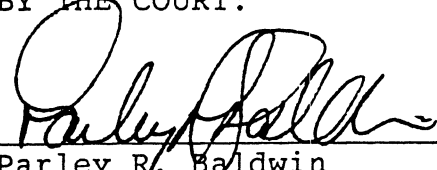
The Court does not intend to allow either party to present evidence to the jury regarding the subsequent arrest of the defendant, the validity of the pleadings, and all evidence on court procedures and all evidence will be restricted as set forth in the above-cited rules.

The jury will hear relevant evidence of expired registration and failure to appear.

This case, which normally would be heard in a 1/2 day setting, is to be set for one full day jury setting and counsel should be prepared to complete the case in that time frame.

DATED this 9<sup>th</sup> day of May, 1988.

BY THE COURT:

  
\_\_\_\_\_  
Parley R. Baldwin  
Circuit Court Judge

# STATE OF UTAH

STATE TAX / REGISTRATION - MOTOR VEHICLE DIVISION  
MAIN OFFICE 5 MOTOR AVENUE  
SALT LAKE CITY, UTAH 84116  
TELEPHONE 533-5311

## REGISTRATION CERTIFICATE

MUST BE CARRIED IN VEHICLE AT ALL TIMES  
NOT VALID UNTIL STAMPED AND NUMBERED

EXPIRES **JUL, 1988**

UTAH PLATE NUMBER

**AKW029**

OWNER'S NAME **THATCHER SID**

STREET ADDRESS **2694 W 1800 SOUTH**

P.O. BOX

CITY <b>LOGAN</b>		STATE <b>UT</b>	ZIP CODE <b>84321</b>	COUNTY <b>03</b>
VEHICLE IDENTIFICATION NO. <b>1VWAG0178FV032490</b>			TYPE <b>PP</b>	MAKE <b>VOLK</b>
BODY STYLE <b>2H</b>	MODEL <b>GLF</b>	YR <b>85</b>	CYLS <b>04</b>	GROSS WT (COM) <b>1600</b>
		FUEL <b>D</b>	ASSESSMENT CODE <b>-0515</b>	

INS. CO.

**FARMERS**

POLICY NO.

**20439833**

OWNER'S

SIGNATURE

*Sid Thatcher*

FORM TC-657A

880451-CA

# 51866 REGISTRATION FEES

Passenger	\$10.00
*Motorcycle	\$ 7.50
*Trucks	(See Schedule)
Trailers (over 750 lbs.)	\$10.00
Small Trailers (750 lbs. or less unladen weight)	\$ 7.50

Passenger cars and four-wheel drive trucks not operated for compensation or for hire, are allowed a combined gross weight of 10,000 pounds when operated in combination with trailer.

The gross laden weight (over 6,000 pounds) for which a vehicle is must be legibly painted or stenciled on sides of the power unit in figures 4 inches or more in height.

Partial year registration expires the last day of the registration period for which issued.

\*Plus a Driver's Education Tax.

ON SALE OR DISPOSAL OF THIS VEHICLE REMOVE YOUR LICENSE PLATES.

NOTIFY THIS DIVISION WITHIN 10 DAYS OF ANY CHANGE OF ADDRESS.

## 2d. 19 TRUCK FEE SCHEDULE

Maximum Gross Weight	Annual	6-9 Mo. 3-90%	1-3 Mo 30%
6,000	12.50	11.85	7.50
8,000	20.00	18.00	12.00
12,000	35.00	32.50	21.00
15,000	45.00	40.50	27.00
18,000	60.00	54.00	36.00
21,000	75.00	67.50	45.00
24,000	90.00	81.00	54.00
27,000	105.00	94.50	63.00
30,000	120.00	108.00	72.00
33,000	135.00	121.50	81.00
36,000	150.00	135.00	90.00
39,000	165.00	148.50	99.00
42,000	180.00	162.00	108.00
45,000	195.00	175.50	117.00
48,000	210.00	189.00	126.00
51,000	225.00	202.50	135.00
54,000	240.00	216.00	144.00
57,000	255.00	229.50	153.00
60,000	270.00	243.00	162.00
63,000	285.00	256.50	171.00
66,000	300.00	270.00	180.00
69,000	315.00	283.50	189.00
72,000	330.00	297.00	198.00
75,000	345.00	310.50	207.00
78,000	360.00	324.00	216.00
81,000	375.00	337.50	225.00
84,000	390.00	351.00	234.00
87,000	405.00	364.50	243.00
90,000	420.00	378.00	252.00
93,000	435.00	391.50	261.00
96,000	450.00	405.00	270.00
99,000	465.00	418.50	279.00
102,000	480.00	432.00	288.00
105,000	495.00	445.50	297.00
108,000	510.00	459.00	306.00
111,000	525.00	472.50	315.00
114,000	540.00	486.00	324.00
117,000	555.00	499.50	333.00
120,000	570.00	513.00	342.00

80,000 is legal load limit without overload permit from highway patrol.