

1989

Logan City v. Michael Stacey Thatcher : Brief of Appellant

Utah Court of Appeals

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COURT NO. 890206

UTAH COURT OF APPEALS

LOGAN CITY,)

Plaintiff/Respondent,)

vs.)

MICHAEL STACEY THATCHER,)

Defendant/Appellant.)

Case No. ~~880451-CA~~

890206-CA
Priority #2

ON APPEAL FROM THE FIRST CIRCUIT COURT CACHE COUNTY

JUDGE CLINT S. JUDKINS

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JUN 30 1989

COURT OF APPEALS

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vs.)	Case No. 880451-CA
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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 school zone speeding offense. This court has jurisdiction over this appeal under Section 78-2a-3 (2) (c) U.C.A. 1953 as amended.

STATEMENT OF THE ISSUES

1. Is Michael Thatcher not guilty of the offense because Logan City is bound by the law in Case No. 880451-CA which holds that the forms and practices in the apprehension and prosecution in this case are in direct conflict with Utah Statutory requirements and also constitute criminal prosecutorial practices denying due process?

2. Is Michael Thatcher not guilty of speeding in a school zone because the so-called school zone is a speed trap totally ultra vires of the Logan City ordinance and State Statutes because it is more than a city block distant from any school or school grounds and because no school or other pedestrian hazards existed?

3. Aside from the law of the Case (Issue 1 paragraph 1, supra), is Michael Thatcher not guilty of speeding in a school zone because Logan City and the Circuit Court denied due process in employing forms and practices in his apprehension and prosecution which were not only in direct conflict with Utah statutory requirements for those

proceedings but also constituted criminal ultra vires prosecutorial practices denying due process?

4. Does Sec. 77-7-18 - 21 deny due process because it prescribes citation contents designed to unfairly extort bail forfeitures and fines and because of facial threats of indiscriminate warrant issuance because of vagueness and because it authorizes judicial process terms to describe the citation?

RELEVANT STATUTES AND ORDINANCES

(All Utah Code Annotated 1953 references are underlined, i.e. "41-6-46" without other designation.

Utah State Statutes - Speeding Utah Enabling Statute

41-6-46. Speed regulations--Safe and appropriate speeds at certain locations--Prima facie speed limits--Emergency power of the governor.

(1) A person may not operate a vehicle at a speed greater than is reasonable and prudent under the conditions and **having regard to the actual and potential hazards then existing**, including, but not limited to when:

(a - d omitted)

(e) **special hazards exist with respect to pedestrians** or other traffic or by reason of weather or highway conditions.

(2) Where no special hazard exists, and subject to Subsection (3) and Sections 41-6-47 and 41-6-48, the following speeds are lawful. Any speed in excess of these limits is **prima facie evidence** that the speed is not reasonable or prudent and that it is unlawful:

(a) twenty miles per hour when passing a school building or its grounds during school recess or while children are going to or leaving school during opening or closing hours, except that local authorities may require a complete stop before passing a school building or grounds at any of these periods.

(b and c and 3 omitted) (Bold face emphasis added)

**41-6-16. Provisions of act uniform throughout state--
Local regulations.**

The provisions of this act shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein and no local authority shall enact or enforce any rule or regulation in conflict with the provisions of this act unless expressly authorized herein. Local authorities may, however, adopt regulations consistent with this act, and additional traffic regulations which are not in conflict therewith.

10-3-701. Legislative power exercised by ordinance.

Except as otherwise specifically provided, **the governing body of each municipality** shall exercise its legislative powers through ordinances. (Bold Face emphasis added)

Logan City Speeding Ordinance

42-7-1. Speed Regulations--Maximum Speeds--School Buildings--Intersections, Crossing, and Curves.

(a) No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and **having regard to the actual and potential hazards then existing.** In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(1) **Twenty miles per hours when passing a school building or grounds thereof during school recess or while children are going to or leaving school during opening and closing hours.**

(2 and 3 omitted)

(4) **40 m.p.h. on the following streets:**

400 North - Between Main Street and 1200 East

(Others omitted under 4)

(5 and 6 omitted) (Bold face emphasis added)

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.....

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....

(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.

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)

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.....

(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 informationis 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 (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.....

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.

STATEMENT OF THE CASE

Nature of the Case

This de facto criminal action for the offense of speeding in a pre-textual and wholly ultra vires speed trap "school zone" was commenced in and on 400 North Street U.S. Highway 89 in Logan, Utah on December 16, 1988 by a city police officer while impersonating an officer of the Circuit Court by delivering to Thatcher a false Circuit Court judicial notice with numerous ultra vires fear engendering judicial titles and threats under a Circuit Court case number, captions and headings. A materially varied copy of the false judicial notice was filed by the policeman with the Circuit Court under the pretext that it was a "citation."

The Circuit Court, acting on the strength of the pretextual "citation" false judicial notice, issued a Delinquent Notice and mailed the same to Michael Thatcher after he inadvertently failed to appear within the time fixed. The court in the notice threatened Thatcher with the issuance of a warrant on January 30, 1989 unless he paid the

fixed bail of \$80.00 before that date. He paid the bail of \$80.00, entered the plea of not guilty, and demanded a jury trial. Following his plea of not guilty to the false judicial notice on the 7th day of February, 1989, an information was filed. A jury trial was held on March 2, 1989. Plaintiff moved to dismiss on the grounds that it was the law of the Karen Thatcher case and otherwise the law that the false judicial notice "tickets" denied due process and was a complete defense.

The judge received the Karen Thatcher Brief and decision in evidence and denied the motion to dismiss and excluded relevant evidence regarding the false judicial notice. At the close of the city's evidence a motion to dismiss and for a directed verdict was added on the grounds that 33 miles per hour was a legal speed at that time and place. The judge denied the motion. The case was submitted to the jury. Within a very few minutes after deliberations began the jury returned a verdict of guilty. Time for sentencing was waived, a fine was imposed and sentence suspended on condition of fine payment. A notice of appeal herein was filed on the 27th day of March 1989.

Statement of Facts

On December 16, 1988 Michael Thatcher was a 21 year old single student at Utah State University living at home in the Young Ward community west of Logan. He was driving his

car to Utah State University going east on Logan's Fourth North street, four lane U.S. Highway 89 and the main highway from downtown Logan to USU, to Logan Canyon and to interstate points north and east. (Tr. pg. 88 - 89, Add. pg. 1). The posted speed limit and the speed limit expressly fixed by Logan City ordinance for said highway was 40 miles per hour. (Tr. pg. 55, Add. pg. 9). As he was proceeding east at 33 miles per hour he was stopped by a Logan City police officer and was served with a false judicial notice. (Tr. pg. 53 and Add. Pgs. 2, 3 & 4). The "ticket" had a Circuit Court heading and case number and was variously designated as a "Summons," "Information," "Affidavit" charging him with exceeding a 20 m.p.h. speed limit in a school zone (Add. pgs. 2, 3 & 4). The Logan City police department had established the zones by signs and blinking yellow lights as a 20 mile per hour school zone (Tr. Pg. 48). The zone was ultra vires of two city ordinances and the state statute because it was more than a block from the Adams Elementary School and grounds (Add. pg. 1). There were no pedestrians visible from the highway within the so called "school zone" at the time (Tr. pg. 58). The nearest school or school grounds was located a full city block north of the Fourth North U.S. 89 ultra vires school zone (Add. Pg. 1). The State statute and Logan City ordinance authorizes 20 miles per hour school zones only in

"passing a school building or grounds thereof" (Add. Pg. 9 and 41-6-46). Another part of the same Logan City ordinance expressly provides a 40 miles per hour speed limit on Fourth North U.S. Highway 89 from Main Street Logan east to 1200 East which includes the ultra vires speed trap (Add. Pg. 9).

SUMMARY OF ARGUMENTS

This "school zone" speed trap was ultra vires of State law and the City ordinance and there were no pedestrian hazards. The use by the police and the Court of a false judicial notice in lieu of a "citation" ignores the law of an earlier case and denies due process. The Utah "citation" enabling act is unconstitutional on multiple grounds.

The police department has established an 20 m.p.h. ultra vires school zone speed trap in a 40 m.p.h. zone over a block away from any school or grounds (Add. Pg. 1 Map). The State statute and a City ordinance expressly limit school zones to roads passing by "a school or its grounds." The same city ordinance expressly fixed the speed limit at 40 miles per hour on this major highway. In addition there were no school or other pedestrian hazards at the time.

The absurdity of the ultra vires speed trap is compounded by the use of extra-legal ticket forms by the police and court. Rather than employing a legal "citation," the police officer serves false judicial notice under circuit court numbered heading falsely entitled a "Summons,"

"Information," and "Affidavit." (Add. Pg. 2, 3 & 4). Logan City and the Circuit Court have continued this illicit form practice in open hostility to the law and in contempt of a previous Court of Appeals case judgment and decision on this matter in which the City defaulted in brief filing and oral argument.

Utah's "citation" enabling statute violates due process by authorizing use in citations of false judicial designations such as "information," "Summons and Complaint," and threats of indiscriminate issuance.

ARGUMENT

- I. THE EXISTENCE OF THE GESTAPO STYLE SPEED TRAP, LONG ESTABLISHED BY THE CITY POLICE ON A MAIN HIGHWAY IN OPEN HOSTILITY TO BOTH ITS OWN ORDINANCES AND LIMITING STATE STATUTES IS A PRACTICE IN OUTRAGEOUS VIOLATION OF DUE PROCESS.

If it were not for the fact that these kinds of outrageous ultra vires official practices are the accepted and expected norm in Cache County local governments, this argument would appear to be so obvious as to be an affront to this Honorable Court. This case again raises the rhetorical question as to what kind of cumulative proof it will take for the appellate courts of Utah to recognize and deal forthrightly and effectively with the reality that in Cache County "they" have developed highly popular and officially mandated forms of de facto local governance which

are openly hostile to the rule of constitutional law and the state appellate jurisprudence, including hostility to the law of specific cases.

The relevant facts are clearly established by the official Logan City Map attached as Addendum page 1 infra. The subject "school zone" is U.S. 89 on Fourth North between Third East and Fifth East. The school and grounds pretext for the "school zone" is Adams Elementary School and its Adams Park grounds occupying the full city block from Fifth North to Sixth North and from Fourth East to Fifth East. The only streets qualifying for the 20 m.p.h. school zone in the Adams school area are those surrounding that block and no others. U.S. 89 Fourth North is a full block further south than the authorized school zone between Fifth and Sixth North Streets (Add. pg. 1).

The Logan City school zone ordinance Thatcher was cited and charged with violating was 42-7-1 (a)(1) which expressly limits the zone to "when passing a school building or grounds thereof" (Add. pg. 8 & 9). A later subsection of that same ordinance, 42-7-1 (a)(4), in designating 40 m.p.h. speed zones first designates this very stretch of U.S. 89 on Fourth North from Main Street to Twelfth East as a 40 m.p.h. zone.

The ordinance limitation on school zones to streets adjacent to "schools and grounds" is expressly imposed upon

municipal authorities by the state legislature in 41-6-46 (2)(a) and 41-6-16. These local speed traps remote from hazards on highways, imposed to raise local revenues would be perhaps the classical evil targeted by the state legislature by 41-6-16. The State legislature obviously mandated this protection to the public from the well-known propensity of local legislative bodies, police and courts to establishing speed traps for revenue raising purposes on main highways under the pretext of "school zones" regardless of the proximity of the "trap" to the primary school zone hazards.

The City police have, by setting up this illegal trap, violated the clear mandate of the sovereign state of Utah and its own municipal legislature for the purpose of extracting property in the form of illicit fine, bail money, etc. as an entrenched unconstitutional practice.

Even if arguendo, this had been a properly designated 20 m.p.h. school zone, the 33 m.p.h. would have been lawful because there were no school or other pedestrian traffic hazards within the view of the two policemen. One policeman was sitting in her parked pick-up looking for pedestrians to escort them across the highways with a hand-written stop sign. She testified that there were none (Tr. pg. 77 and 80).

The State statute 41-6-46 (1) and (2) and City Ordinance 41-6-46 make it very clear that even the 20 m.p.h. limit is only prima facie. It may be overcome by evidence as in this case where the two policemen and Thatcher all concurred that there were in fact at that time no observable school or other pedestrians in sight.

This local sovereign police violation of the State and City legislative limitations on the police authority is one of the clearest violations of due process of law.

The sum of the due process violations is incredible in this case:

"In general, when the sovereign has established rules to govern its own conduct, it will be held to the self-imposed limitation on its own authority, departure from which denies due process of law."

This citation is from 16C C.J.S. Con. Law Sec. 969 pgs. 265 & 266 citing Layton v. Swapp, D. C. Utah 484 F. Supp. 958, above which is noted:

"Implicit in concept of due process are ideas that government must follow its own rules and that it must do so within reasonable time."

The compulsory nondiscretionary nature of the sovereign's duty to follow its own rules is highlighted by a continuation of the same C.J.S. citation at page 266.

"and where a state has established procedure which comports with due process, state and local officials are bound to follow those procedures." (Citing Wold v. Lillie v. Kenosha County Sheriff, D.C. Wis., 504 F. Supp. 1 vacated on other grounds C.A.)

This locally popular notion that the police can establish school zones wherever they think there is a hazard and that rules are to be interpreted for the convenience and efficiency of the sovereign or its favored patrons is dispelled with finality by the case of Deseret Savings Bank vs. Francis, 62 Utah 85, 217 P. 114 (1923) and 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 depository 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. IT IS A DUE PROCESS DEFENSE THAT THESE CITY POLICE "TICKETS" ARE ULTRA VIRES OF THE "CITATION" STATUTE AND CLASS B MISDEMEANORS. THEIR SERVICE IS FALSE IMPERSONATION, THE FORM IS A FALSE JUDICIAL NOTICE. THE DEFAULTING CITY AND CIRCUIT COURT HAVE "THUMBED THEIR NOSES" AT THIS COURT'S DECISION IN CASE NO. 880451-CA ON THIS VERY ISSUE.

The "ticket" forms employed by the City (Add. pgs. 2, 3 & 4) clearly and outrageously exceed the permitted wording for "citations" under 77-7-10. The "citations" used in the same Circuit Court by the Highway Patrol (Add. pg. 6) and Cache

Sheriff's Office (Add. pg. 5), by contrast appear to be a good faith attempt to conform to 77-7-10. It is obvious on the other hand that in the signing and delivering of the "SUMMONS," (etc.) ticket the policeman is impersonating a summons-issuing officer of the First Circuit Court, committing a Class B misdemeanor of impersonation of an officer under 76-8-512 and committing another Class B misdemeanor of false judicial notice under 76-8-513.

The ruling of the Circuit Court, excluding due process denial evidence at the jury trial denied Defendant's fundamental due process right to present all his defenses to the jury. Thatcher 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 extraction of property in the form of an \$80.00 fine.

"...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) (16 C C.J.S. Con. Law Sec. 964 pg. 233)

The ultra vires practices here all violated the aforesaid private rights protective state statutes and 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 ultra vires practices employed here were calculated to thwart rather than fulfill the legitimate purposes of the law. At a minimum degree of culpability, the police, prosecutorial and court 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.

"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 City's objective was to extort fines by unfair

and illegal scare tactics. 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 street of Logan to there commence a criminal action by their issuing and serving a false judicial notice "SUMMONS," "INFORMATION," under a Circuit Court number and with a Circuit Court heading (Add. pg. 2, 3 & 4).

The simplest, most basic concepts of separation of powers dictate what is statutorily established in 77-35-1-7. A police officer belongs to the executive branch and has no power to issue Summons, though he may serve the same. The criminal action must be first commenced by the filing of an information with the magistrate before any criminal action is commenced or summons issued. 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 or any suggestion that they are "Court" officers or that there is a court number (See Add. pg. 5 & 6). These open and notorious claims of police 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 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 "citation" forms 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 in the caption, twice in red bold type on the front of the ticket and in two places 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 of the circuit court and in the caption has a number (No. C-1875) where case numbers are required in formal court pleadings. It is obviously calculated to give the appearance that the violator is a defendant in a criminal case properly and legally filed in that court. The large number in the caption under the court heading is obviously calculated to further instill the fear that the

case has already been court docketed and that some fearful, but unspecified court action has already been taken.

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 that apparent authorization in incredible proportions. The top heading of the "COURT COPY" bearing Thatcher's original signature designates the ticket as an "INFORMATION-AFFIDAVIT" under the Circuit Court heading (Add. pg 4).

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 extort payment of fines and forfeiture of bail that could not be extracted by the use of a legal "citation."

"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 and 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)

The most charitable view that one can possibly take of the state of the collective official minds that led to the unconscionable property (and liberty) extraction scheme is that "they" subjectively interpreted their statutory powers to provide the maximum possible expedience to their objectives of extracting money from the public. Only the most "official" self-serving and convoluted interpretation of statutes could lead to a conclusion of legislative authority for this conduct. Such interpretations are the norm in Cache County local government even when citizens' property and liberty rights are at stake.

The Supreme Court of the State of Utah quoting from the U.S. Supreme Court has mandated an opposite principal of interpretation to protect individual rights in Deseret Savings Bank vs. Francis, 62 Utah 85, 217 P. 114 (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 depository 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.'"

B. This False Judicial Notice Matter is Res Judicata as to Logan City and the Circuit Court.

One unquestionable effect of this Court's unreported decision in the case of Logan City v. Karen Thatcher (Michael's cousin) No. 880451-CA was to declare the "ticket" form served on Karen an ultra vires "citation" at least as to Logan City who totally defaulted on that appeal. The Appellant's brief and the decision are in the record of this case beginning at page 22 and is referred to herein as page numbers in "Karen's Brief." The printed ultra vires "ticket" form served on Karen on September 4, 1987 is found in Karen's Brief Addendum pgs. A1 to A5. The good faith "citation" forms used by the Highway Patrol and Sheriff's office are in Karen's Brief pgs. A6 and A7.

The ultra vires ticket served on Michael Thatcher about fifteen months later on December 16, 1988 is Addendum pgs. A1, A2 and A3 infra. A careful comparison shows a reprint and some changes that fall woefully short of correcting the false judicial notice character of the former version conceded by the City's default in the Karen Thatcher appeal.

It is clear that the "new" ticket form retained its fear engendering appearance as a filed and numbered court headed and captioned "summons," "information," and

"affidavit." Multiple "SUMMONS" statements remained on the face including a large print caption and red print references with two on the reverse side in the body. Some former Summons references were changed to "citation." It is clear however that the City was intent on retaining and not relinquishing whatever extortive effect there was in continuing the false judicial scare of court heading, court case number, summons-information-affidavit references. It is clear that the City had no intent to return to the use of a "citation" in conformity with State law as conceded in their default and as evidenced by the concurrent forms used by the Highway Patrol and Cache Sheriff's office. This kind of conduct has every appearance of constituting contempt of this Court.

These same false judicial notice and false impersonation issues on substantially similar forms were matters litigated in the Karen Thatcher case to which Logan City was a party subject to this Utah Court of Appeals decision within the meaning of 46 Am. Jur. 2d. Judgments Sec. 229 as follows:

Indeed, the first and most obvious consequence of a judgment is that it establishes an indisputable obligation, and a final judgment definitely fixes the rights and liabilities of the parties in an action as to the matters submitted to it for decision.

The note cites Adams v. Davies, 107 Utah 579, 156 P.2d. 207 and 158 ALR 852.

Logan City was a party whose obligation to discontinue the use of those substantially similar false judicial notice tickets was fixed by the City's default. The City judicially conceded the illegality of the form and practice in that earlier case. If this chain of events will not convince this Court that Logan City's officials and the Circuit Court have a popular de facto system for governance which they believe to be superior to the rule of constitutional law, then exposed unfavored citizens would be well advised to move to another city (and state).

III. THE CITATION ENABLING ACT IS SO PREJUDICIALLY MISLEADING AND VAGUE IN DESCRIBING RIGHTS AND LIABILITIES THAT ALL OR SUBSTANTIAL PORTIONS ARE UNCONSTITUTIONAL. THIS MATTER WAS ALSO DECIDED AGAINST LOGAN CITY IN THE KAREN THATCHER CASE.

A. A careful analysis of the misdemeanor "citation" enabling act found in 77-7-18 to 23 and compared with 76-512 & 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 uncontested fine payments and bail forfeitures. 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 indiscriminately even though unspecified statutory protective pre-conditions to warrant

issuance must first be met under the law. 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 on the street.

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. Section 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 of reference to the notice:

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

Then 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 finite unconstitutional elements in the citation enabling act (Add. A1-A5).

The Highway Patrol citation form (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 under 76-8-513.

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 statute 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 appears to be expressly authorized by 77-7-20. This 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" but not the "information" title as does the Sheriff's form.

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.

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 on a separate failure to appear offense if you wilfully fail 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 to the information filing process of mailing notices and demands is totally absent. The "warrant may issue" statement deceitfully omits the "summons" process which is the compulsory formal process

following information filing absent a finding based on evidence of likelihood of the dangers specified in 77-35-6 (b).

The insidious evil which this misleading legislation spawned is evident in what must have been hundreds of thousands of dollars of fines paid and bail forfeited in this illicit speed trap in which no one has openly raised the issue that it is not a 20 m.p.h. school zone. Logan City's last 20 years of operation and support of its huge police force substantially depended on this and other similar illicit traps and fear engendering false notice "tickets." These were all popularly supported practices under their so called better de facto governmental system.

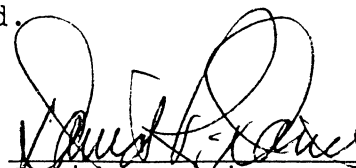
B. The issue under this Point was raised and briefed identically in the Karen Thatcher brief Point III pages 38 through 42. Point II B supra is incorporated by reference regarding the res judicata effect of the Karen Thatcher judgment of reversal. The judgment of reversal in that case inherently include a conclusion that, at least as to defaulting Logan City (and Karen Thatcher) the Utah citation enabling act is unconstitutional. It would also appear that Logan City as a defaulting party to the earlier (related) appeal should be bound thereby regarding continuing use of any false judicial notice "tickets" on whomever served. There appears to be a direct confrontation in these cases

between the state level appellate judicial authority of this Court and the apparent contempt of a local police (and court) system that will not be deterred. This de facto local governmental system is popularly and openly hostile to the rule of constitutional law.

CONCLUSION

This Court should not only render a reversal of the guilty verdict but should also stop the local rebellion against the rule of constitutional law clearly evidenced in this case. There should be a reported decision establishing the law on all issues raised. In view of the apparent contempt shown for the decision of this Court by Logan City in the Karen Thatcher case, the Court should consider exercising its extraordinary writ power to require conformity to the law of this case by both Logan City and the First Circuit Court.

Respectfully submitted.

A handwritten signature in black ink, appearing to read "David R. Daines", is written over a horizontal line.

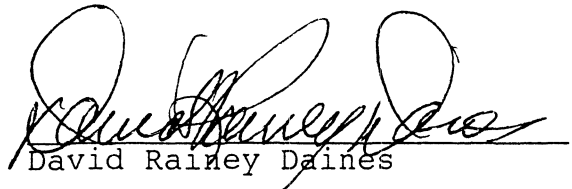
David R. Daines
Attorney for Defendant Appellant

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CERTIFICATE OF SERVICE

This is to certify that on this 29th day of June, 1989
a true and correct copy of the foregoing Brief of Appellant
were mailed postage prepaid in Logan, Utah to Scott Barrett,
Barrett and Daines, 108 North Main Street, Logan, Utah
84321.



David Rainey Daines

DRD:mt
MT-001
WS LEGAL

No. C - 1875
SUMMONS

The undersigned being duly sworn upon his oath deposes and says

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

Last	First	Middle	No
Name _____			

Sworn and subscribed to before me

**NOTICE TO VIOLATOR: READ
BACK OF THIS SUMMONS
CAREFULLY. BRING SUMMONS
WITH YOU.**

Signature _____

INSTRUCTIONS — READ CAREFULLY

SIGNING THIS CITATION 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 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 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 class B misdemeanor, for which the law provides a penalty up to 6 months in jail or \$1,000.00 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 Friday
except legal holidays.

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

CITATION OR INFORMATION AND NOTICE TO APPEAR

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

No. C - 1875

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 16 day of Dec 1988 at 9:13 ☒ A.M. ☐ P.M.
Name Michael Stacey Thatcher
Last (Please print) First Middle
Street 1800 So 2800 W.
City Logan State Utah
Age 21 Birth Date 5/2/67 Sex ☒ Male ☐ Female
Driv Lic No 146509394 State Utah ☒ Oper ☐ Chauff
Veh Lic No 274 CTM State Utah Year 87
Make Toyota Style 265 Color Black
Upon a public highway namely at (location) 350 E - 45th

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 <u>33</u> mph in <u>20</u> mph zone <u>Radar</u>		Name Last First Middle No. C - 1875		
	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"/> Improper backing <input type="checkbox"/> Steady red <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"/> Cut in <input type="checkbox"/> Wrong lane <input type="checkbox"/> At Ped <input type="checkbox"/> Across physical bar <input type="checkbox"/> On right <input checked="" type="checkbox"/> X walk			
Conditions that Increased Seriousness of Violation	FAILURE TO YIELD <input type="checkbox"/> Ped <input type="checkbox"/> Veh FOLLOWING TOO CLOSELY <input type="checkbox"/>				
	Other violations (describe)				
	in violation of the (State Statute) (City Ordinance) in such case made and provided				
	SLIPPERY PAVEMENT	<input type="checkbox"/> Rain <input type="checkbox"/> Snow <input type="checkbox"/> Ice		CAUSED PERSON TO DODGE	<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
	DARKNESS	<input type="checkbox"/> Night <input type="checkbox"/> Fog <input type="checkbox"/> Snow		<input type="checkbox"/> Pedestrian <input type="checkbox"/> Driver	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
	OTHER TRAFFIC PRESENT	<input type="checkbox"/> Cross <input type="checkbox"/> Oncoming <input type="checkbox"/> Pedestrian <input type="checkbox"/> Same Direction		JUST MISSED ACCIDENT	
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 type="checkbox"/> 4 lane divided			

I certify that a 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 77-7-21 (SK 77-7-19)

Sworn and subscribed to before me

this _____ day of _____ 198 _____

Circuit Judge

X. Hillmore
(Signature and identification of officer or other complainant)

COURT APPEARANCE 23 day of Dec 1988 at 7 ☒ A.M. ☐ P.M.

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

WITHOUT ADMITTING GUILT I PROMISE TO APPEAR AS DIRECTED HEREIN

COURT COPY

Signature

Michael Stacey Thatcher

STATE OF UTAH
COUNTY OF CACHE

732-6813

THE DEFENDANT IS HEREBY
GIVEN NOTICE TO APPEAR BEFORE

JUDGE Circuit Judge

LOCATED AT 140 West 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.

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

CACHE COUNTY SHERIFF'S OFFICE

UNIFORM CITATION OR INFORMATION
AND NOTICE TO APPEAR

CASE NO.

882000294

CITATION NO.

A456817

Name (Last) (First) (Middle)

Brown, Robert H.

Address (City) (State) (Zip) Phone

700 South 200 West + 1, Logan, Utah 84321

Place of Birth DOB Social Security Number Ht. Wt. Hair Eyes Race (M) (F)

6/12/61 528 11-7277 6-2 150 BR BR W F

Driver License No. State Vehicle License No. State Expires

1538151 UT 2462 AA UT 11/87

Picture ID Vehicle Color Vehicle Year Vehicle Make Type Model Accident

Yes No BR/CR 1985 Ford 13/4 F-150 Y N

THE ABOVE NAMED DEFENDANT IS CHARGED WITH VIOLATING:

UT CO CY Code # Misd. Cit. Trial.

X Speed 41-6-16 X

X Expired Registration 41-1-18 X

Location Mile Post No. Interstate Direction

SR 89/91, College Ward 22 Yes No N S E W

Date Military Time Speeding MPH Over

13 January, 19 88 0616 67 In a 55 zone 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

ALLEGES 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

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 Local Court

LOCATED AT 140 N. 100th.
Local 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

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

SEVERITY

- ☐ Minimum
☐ Intermediate
☐ Maximum

ISSUED
BY:

UTAH HIGHWAY PATROL

CITATION NO.

B 262294

NAME (Last) <u>Laurel</u>		(First) <u>Daniel</u>		(Middle) <u>K</u>		DOB <u>3-23-32</u>	<input checked="" type="checkbox"/> M <input type="checkbox"/> F
ADDRESS <u>1158 W. 1750 E. Logan UT</u>						ZIP <u>84321</u>	
Driver License No. <u>2248427</u>		State <u>UT</u>		Vehicle License No. <u>224RLC</u>		State <u>UT</u> Expires <u>5-88</u>	
Vehicle Color <u>Maroon</u>	Vehicle Year <u>1980</u>	Vehicle Make <u>Rodger</u>	Type <u>Van</u>	Accident <u>R N</u>		Di <u>N 2</u> 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 College Ward SK 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 [Signature]

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 (77-7-19).

OFFICER [Signature] BADGE # 277
DATE _____ A.D. 19 _____

DEFENDANT COPY

DATE SENT TO DLD

DOCKET NO.

DLD
USE

COURT - LOGAN

DELINQUENT NOTICE

UT84321
'52-6893

RECORDS OF THIS OFFICE SHOW THAT YOU HAVE FAILED TO APPEAR
OR DEPOSIT BAIL FOR THE CITATION DESCRIBED BELOW:

DR. LICENSE NO.	CITATION NUMBER	BAIL AND COST
145309374	1875LCP	80.00
VIOLATION(S)	CASE NUMBER	
002	882013599	

IMPORTANT

A WARRANT FOR YOUR ARREST WILL
BE ISSUED AND YOUR DRIVING PRIVI-
LEDGE SUSPENDED IF YOU FAIL TO
APPEAR OR DEPOSIT BAIL BEFORE
THE WARRANT DATE SHOWN.

INCREASED BAIL.
IF YOU DO NOT DESIRE TO APPEAR IN PERSON YOU MAY SEND
MONEY ORDER FOR THE AMOUNT SHOWN AND THE CASE WILL BE CLOSED
NOTICE WITH YOUR PAYMENT OR IF YOU DESIRE A HEARING. IT MAY BE
HEARD (801) 752-8873 BETWEEN 8:00 A.M. AND 5:00 P.M.
TABLE TO: FIRST CIRCUIT COURT - LOGAN

MICHAEL S
2800 WEST

FIRST CIRCUIT COURT - LOGAN
P.O. Box 291
LOGAN

UT84321

UT 84321

DO NOT MAIL CASH. PARTIAL PAYMENT NOT ACCEPTED.
HAVE TAKEN CARE OF THIS CITATION, PLEASE DISREGARD THIS NOTICE.

*Forgot About it - Stayed until
March 2nd @ trial 21*

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.

)

THATCHER, Michael Stacey
1800 South 2800 West
Logan, Utah

882013599

Defendant

)

The undersigned, RICHARD HENDRICKS under oath, states on the information and belief that the above named Defendant committed the crime(s) of:
SPEEDING (SCHOOL ZONE) (CLASS C MISDEMEANOR)
at Logan, Utah on 12/16/88 in violation of the following sections of the Revised Ordinances of Logan City:
42/7/1

That, contrary to Logan City Ordinances, Defendant's acts constituting the offense were:
That the Defendant did drive at a speed greater than was reasonable and prudent under the conditions and having regards to the actual and potential hazards then existing namely 33 mph in a 20 mph zone (SCHOOL ZONE).

Class C Misdemeanor

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

B. FILLMORE, LCPD

Authorized for presentment & filing

Richard Hendricks
COMPLAINANT

DMB
Logan City Prosecutor/Attorney

Subscribed & sworn to before me
this 7 day of Feb 1989.

DAMAGES:

YES

NO

[Signature]
CIRCUIT COURT JUDGE

SPEED REGULATIONS

42-7-1 Speed Regulations--Maximum Speeds--School Buildings--
Intersections, Crossing, and Curves

(a) No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(b) The following speeds shall be lawful unless otherwise posted. Speeds in excess of the following limits or in excess of the posted limits shall be prima facie evidence that the speeds are not reasonable and prudent and that they are unlawful.

1. Twenty miles per hour when passing a school building or grounds thereof during school recess or while children are going to or leaving school during opening and closing hours
2. Twenty-five miles per hour in any business, residential or urban district inside the city limits of Logan City, unless otherwise posted.
3. Speeds other than those listed in subparagraphs 1 and 2 above may be allowed within the corporate limits of Logan City whenever it is determined upon the basis of an engineering and traffic investigation that the speed permitted by law is more or less than is necessary for the safe operation of the vehicles thereon. Any such change in speeds shall be posted by properly erected signs giving notice thereof.

~~4~~ Speed limits on state highways within the city limits shall be as posted by the state.

42-7-2 Driving Too Slow No person shall drive a motor vehicle at such slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation in compliance with law.

42-7-3 Speed or Acceleration Contests No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation in compliance with law.

42-7-4 Obstruction for Exhibition Forbidden No person shall for the purpose of facilitating, aiding or as an incident to any vehicle speed contest or vehicle acceleration contest in any manner obstruct or place any barricade or obstruction or assist or participate in placing any such barricade or obstruction upon any street or alley.

(CHAPTER 7 AMENDED 9/23/82)

2. Boulevard - Between 200 East and the intersection of
600 East and 400 North
Main Street - Between 400 South and 700 North
600 West - Between 900 North and 300 South
Southwest Street - Between Three Point Avenue and 300 South
Park Avenue - Between South City Limits and Southwest Street
800 East - Between 900 North and 1000 North
1000 West - Between South City Limits and 300 South
300 South - Main Street to 400 East

3. 35 m.p.h. on the following streets:

600 West - Between 900 North and 1500 North
1400 North - Between Main Street and 600 West

4. 40 m.p.h. on the following streets:

400 North - Between Main Street and 1200 East
Main Street - Between South City Limits and 400 South and
Between 700 North and 1100 North
800 East - Between 1000 North and North City Limits
1400 North - Between Main Street and 1500 East
1000 West - Between 200 North and 1400 North
1400 North - Between 1000 West and 600 West

5. 50 m.p.h. on the following streets:

Main Street - Between 1100 North and North City Limits
Highway 89 - Between 1200 East and East City Limits

6. 55 m.p.h. on the following street:

200 North - Between 600 West and West City Limit

42-7-2. Driving Too Slow.

No person shall drive a motor vehicle at such slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation in compliance with law.

42-7-4. Speed or Acceleration Contests.

No person shall engage in any motor vehicle speed contest, or in any motor vehicle acceleration contest on any street or alley, and no person shall aid or abet any such vehicle speed contest or acceleration contest on any street or alley.

42-7-4. Obstruction for Exhibition Forbidden.

No person shall for the purpose of facilitating, aiding or as an incident in any vehicle speed contest or vehicle acceleration contest in any manner construct or place any barricade or obstruction or assist or participate in using any such barricade or obstruction upon any street or alley.

(SEC. 42-7-1 AMENDED 12/17/81,
SEC. 42-7-4 AMENDED 12/3/81)