

STATE OF WISCONSIN

DA Case No.: 2015OU004697
Assigned DA/ADA: Alexander E. Duros
Agency Case No.: LOB15-005590
Court Case No.: 2015FO001440

Plaintiff,

Jason P. Fitzgerald
N7345 Ctv Tk U
Oneida, WI 54155
DOB: 11/18/1969

-VS-
CLERK OF CIRCUIT COURT
OUTAGAMIE COUNTY FILED
DEC 17 2015
Defendant,
AT _____

ATN:

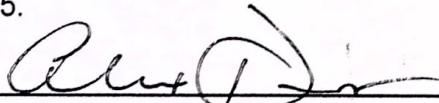
MOTION AND ORDER TO DISMISS

The Office of the District Attorney for Outagamie County, hereby moves the Court to dismiss the above-entitled action without prejudice for the following reasons:

The citing officer arrested the defendant for obstructing because the defendant failed to identify himself after being asked multiple times. According to the jury instruction for obstructing an officer, "The refusal to answer an officer's questions, by itself, is not obstructing an officer." See JI-1766 (2015). The defendant could have been detained in order for the arresting officer to identify him, but mere silence alone does not constitute obstructing under Wisconsin law. Therefore, the State moves to dismiss this citation without prejudice.

The following court date is canceled: January 12, 2016 at 1:30 PM

Dated this 16th day of December, 2015.



Alexander E. Duros
Assistant District Attorney
State Bar No. 1090052

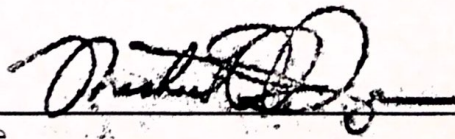
ORDER

BASED UPON THE ABOVE MOTION;

IT IS HEREBY ORDERED that the above-entitled action is hereby dismissed without prejudice and the above court date is canceled.

Dated this 17 day of December, 2015.

BY THE COURT:



Hon. Michael Gage
Circuit Court Branch 5

cc: Mr. Jason P. Fitzgerald
Sgt. Nathan L. Ness #1832 (Oneida PD)