

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
COLES COUNTY, ILLINOIS

THE PEOPLE OF THE STATE)
OF ILLINOIS,)
Plaintiff,)
vs.) NO. 24 TR 732
JOSHUA OVERHOLT,)
Defendant.)
BENCH TRIAL
AND MOTION TO DISMISS

REPORT OF PROCEEDINGS of the hearing before the
Honorable JUDGE CHRIS WETZEL, commencing on **JUNE 18, 2024**.

APPEARANCES:

ATTORNEY GRANT MANNING,
Assistant State's Attorney,
For the People of the State of Illinois;

JOSHUA OVERHOLT,
Self-Represented Litigant.

RECORDING TRANSCRIBED BY:
Joda Shick
Court Specialist

1 THE COURT: This is 24TR732. We'll show that he is
2 -- Mister -- it's Joshua Overholt, is that right?

3 MR. OVERHOLT: Correct.

4 THE COURT: He is present pro se. Mr. Manning
5 present on behalf of the State. There's a couple things
6 in this case. First one, and I'll leave it up to the
7 Defendant after I take the State's motion. Officer, is
8 it, Monte De Oca?

9 MR. MANNING: Yes, that is correct.

10 THE COURT: Is not present because he is in, where
11 was it, a training or?

12 MR. MANNING: He is actually out of state.

13 THE COURT: Out of state. So, they filed a motion
14 or asked for a motion to continue the bench trial. Do
15 you have any objection to that?

16 MR. OVERHOLT: I do. I would like to just get
17 it over with quickly.

18 THE COURT: Okay. Unfortunately, I can't get it --
19 I've got to hear both -- from both sides. All right.
20 And usually I will give at least each party a
21 continuance.

22 MR. OVERHOLT: Okay.

23 THE COURT: Because that's my job is just to make
24 sure that I hear from both sides, not just from the

1 State, but also, from you; and I would do the same thing
2 for you if you came in. If they needed a motion to
3 continue, or needed to get an attorney, or needed
4 something, I try to do everything I could to make sure
5 that your case was heard as well.

6 MR. OVERHOLT: I've got my Motion to Dismiss.

7 THE COURT: I did see that Motion to Dismiss. Now
8 my question is do you want to continue your Motion to
9 Dismiss until they have -- until Officer Monte De Oca is
10 here or do you want to take that Motion to Dismiss now?

11 MR. OVERHOLT: I ask that you dismiss the case
12 now.

13 THE COURT: All right. Have you -- have a copy of
14 the motion?

15 MR. MANNING: I do have a copy of the motion.

16 THE COURT: All right. Do you have any comments to
17 make on the motion?

18 MR. MANNING: I would just point to the fact that the
19 citation, the Illinois citation is a legally sufficient
20 claim. It does allege facts. It is a charging document.
21 It's regularly used throughout the State of Illinois.
22 And for these reasons, Your Honor, the citation is
23 legally sufficient to allege the necessary facts for the
24 Defendant to be found guilty of this offense.

1 THE COURT: All right. And your argument?

2 MR. OVERHOLT: I have a constitutionally
3 protected right to free speech in Illinois State, United
4 States, and United Nations International Bill of Rights.
5 Article 6 of the United States Constitution says that a
6 State statute cannot take away a federal right. So,
7 there's no claim.

8 THE COURT: What claim is -- well, how does that
9 effect this traffic ticket?

10 MR. OVERHOLT: What's the claim?

11 THE COURT: It says here their claim is, is
12 unauthorized use of electronic communication device. All
13 right.

14 MR. OVERHOLT: By speaking?

15 THE COURT: That's -- I don't have any evidence.
16 You're trying to dismiss something. This isn't -- your
17 motion cites a lot of civil litigation. Those Codes of
18 Civil Procedures does not take effect criminal procedure.
19 All the State has to do is provide you notice and the
20 right in the Complaint to tell you what you've been
21 charged with, to be able to give you some idea of when it
22 was charged, when it -- and to be able to prepare a
23 defense towards that. Statute and case law indicates
24 that Illinois Uniform Citation is considered a Verified

1 Complaint and would be considered a Verified Complaint
2 unless you object to it. If you object to it then the
3 State would have to file a Verified Information, and it
4 be presented -- and you can be presented with that in
5 that Information and you would be basically charged with
6 the same offense under an Information verified by the
7 State's Attorney's Office.

8 MR. OVERHOLT: Yeah, I do challenge that.

9 THE COURT: All right. Then I can give them leave
10 to file that amended Information, if you just file that
11 Information by the next court date. I will order that to
12 be done so you would have a verified Complaint of what
13 the allegation is on. All right.

14 But, with regards to dismissing, I deny that
15 motion. I think the -- well, I'll strike that. I'll
16 reserve it until I see the Information. So, once I see
17 the Information, as long as it gives you forth a basis to
18 provide a defense, I'm not saying you're wrong. I'm not
19 saying you don't have a legal challenge to the
20 Constitution. I'm not -- I don't know. The question is,
21 is well, that's your defense so you can present that at
22 trial.

23 MR. OVERHOLT: It's just my Motion to Dismiss.

24 THE COURT: Right.

1 MR. OVERHOLT: It's not my defense.

2 THE COURT: Right.

3 MR. OVERHOLT: Right.

4 THE COURT: Okay. I understand. But, that could
5 be a defense if you had whatever it is when it comes down
6 to it. If you file a Motion to Dismiss I don't think
7 Motion to Dismiss -- your Motion to Dismiss doesn't set
8 forth any constitutional challenges. Yeah, this is more
9 of a civil complaint, like a 2-615, or a 2-619 motion
10 failing to state a claim. Those are more civil in
11 nature. So, if I filed a petition for -- if I was suing
12 somebody, somebody could then come back and say, Judge,
13 the Complaint doesn't state a cause of action; so,
14 therefore, you should dismiss it.

15 This isn't -- this is a criminal charge and it
16 does state that you were on or about April 11th of '24 at
17 4:20 p.m. as you are alleged to committed at Route 16
18 and Detro Drive, turning westbound, by committing a
19 violation of 625 ILCS 5/12-610.2 and they put it in here
20 the nature of the offense, unlawful -- well, it says
21 electronic communication device and at the bottom is
22 says cell phone use. It even gives you the weather
23 conditions and things of the nature at that time. So,
24 they have provided all the necessary information, but

1 you do have the right to ask it to be verified. And I
2 will order them to -- to provide that verified
3 information and put it on file.

4 Where can they send that to you, sir?

5 MR. OVERHOLT: I will provide him email
6 address or I can -- it's josh.overholt@gmail.com.

7 THE COURT: Okay. And what they can do is they can
8 e-file that and then you would automatically get a copy
9 of that --

10 MR. OVERHOLT: Okay.

11 THE COURT: -- filing straight into your email
12 account.

13 MR. OVERHOLT: Will it show up in judici as
14 well?

15 THE COURT: Yes.

16 MR. OVERHOLT: Okay.

17 THE COURT: All right.

18 MR. OVERHOLT: Yeah.

19 THE COURT: So, it will be there. Do you have that
20 email address?

21 MR. OVERHOLT: Sure.

22 MR. MANNING: Sure

23 MR. OVERHOLT: And can I request all the
24 complaints you have against me?

1 THE COURT: Usually that has to be in writing.
2 And the reason it has to be in writing is because, it
3 isn't that I would deny it, I just have to understand
4 what they're requesting. What you think they have; like
5 I want this, this, and this. Because if it was criminal
6 case, as in felony case, we have rules set in our
7 statutes that says your entitled to everything, this,
8 this, and this, under the law. It isn't the same thing
9 with misdemeanors and traffic. They're supposed to be
10 expedited proceedings and they're supposed to be, you
11 know, they -- they don't have those strict rules of
12 discovery. It doesn't mean you can't file a motion
13 requesting discovery of information and the State usually
14 will give you everything they have anyway. He probably
15 already has it. My guess is he probably only has a
16 traffic ticket. I don't know. Maybe he has video. I
17 don't know. But I'm sure he'll talk to you.

18 MR. OVERHOLT: Him or?

19 THE COURT: Yeah. He's the one handling the case.
20 This is Mr. Manning.

21 MR. OVERHOLT: Sure. Nice to meet you.

22 THE COURT: So, he'll give you a card. If you have
23 any questions about it, my experience is you don't have
24 to talk to the State, but my experience is is they're not

1 hiding anything from you.

2 MR. OVERHOLT: Sure.

3 THE COURT: If you want to see if they have it or
4 they need to go out and look and see if the police
5 officer has it and they don't have it. They'll check and
6 tell you, no, we don't have it; or, we do have it. If
7 they don't have it and you think they should, then you
8 can make the arguments that the officer had -- should
9 have had this on. I don't know.

10 MR. OVERHOLT: He had a body camera on. It
11 shows this.

12 THE COURT: So -- so, if he does have it then they
13 will try to track that down. A lot of times they're not
14 hiding anything. It's just a mass of evidence, massive
15 amount of body camera footage they have to go through.
16 So, but, call them and they can check on it. Okay? All
17 right.

18 MR. OVERHOLT: Is that it?

19 THE COURT: Well, we're going to set a new date.

20 MR. OVERHOLT: Okay.

21 THE COURT: All right?

22 MR. OVERHOLT: All right.

23 THE COURT: And then if you write his -- write that
24 email down so he can give you --

1 MR. OVERHOLT: Do you want it right now?

2 MR. MANNING: Yeah, go ahead. Just write it on the
3 top there.

4 THE COURT: -- so that he can give you that new
5 Information.

6 What are you looking at timewise, Mr.
7 Manning?

8 MR. MANNING: I think if we just continue using that
9 July 24th date that would be --

10 THE COURT: Did we set something at 1:30 today?

11 MR. MANNING: Oh, yes, we did. We set the speeding
12 bench trial that we had continued this morning to 1:30 on
13 that.

14 THE COURT: Do you remember the case number on
15 that?

16 MR. MANNING: 24MT125.

17 THE COURT: So, I have a -- and that's a 1:30, and
18 I have a 2. Do you want to set this at 2:30?

19 MR. MANNING: That's fine.

20 THE COURT: Or do you want to set it after the
21 status we have Mr. Reed? I think it's a rule.

22 MR. MANNING: I'll defer to the Court, Defendant for
23 that one. It doesn't make a difference to me.

24 MR. OVERHOLT: I'm open.

1 THE COURT: Let's set it at 2:30.

2 And just for the record, I am reserving the
3 ruling on the Motion to Dismiss until I receive the
4 Information that I see it's placed on file because that's
5 the new Information. So, if they don't allege something
6 in that Information that's necessary, then I can reserve
7 that ruling on it. All right.

8 MR. OVERHOLT: Can you clarify it for me?

9 THE COURT: Uh-huh.

10 MR. OVERHOLT: Who's they?

11 THE COURT: The State's Attorney's Office.

12 MR. OVERHOLT: State's Attorney.

13 THE COURT: They would be filing that Information.
14 Once they file that new Information that you requested,
15 the verified Information, it has to set certain elements
16 that's necessary in the Information. So, you -- your
17 Motion to Dismiss is alleging that they didn't give you
18 that Information. They don't have a basis to proceed
19 under their -- under the law.

20 MR. OVERHOLT: So, the State's Attorney will
21 show how this statute applies to me?

22 THE COURT: No, not necessarily. They just have to
23 provide you notice of what. They don't have to prove
24 their case, they just have to give you some notice to let

1 you know what you're being charged with so you can
2 properly prepare your -- prepare your defense.

3 MR. OVERHOLT: Okay.

4 THE COURT: So, they have to tell you when, where,
5 and what you did. All right. Doesn't -- you're presumed
6 innocent of the charges. They've got to prove you guilty
7 beyond a reasonable doubt.

8 MR. OVERHOLT: This is a two-page statute that
9 has 10 exceptions.

10 THE COURT: Uh-huh.

11 MR. OVERHOLT: When you say they have to prove
12 what I did, can they just name that statute or do they
13 have to tell me more specifically?

14 THE COURT: They only have to provide you with the
15 statute that you violated. All right.

16 MR. OVERHOLT: Okay.

17 THE COURT: They have to -- they have to provide
18 that defense. Now, you can request a motion for -- you
19 can request an additional motion saying, Judge, I still
20 don't know what I did. All right. And, if that's the
21 motion after you get their Information, you have to bring
22 that to the Court's attention by saying I don't know what
23 I did. I need more information so I can prepare my
24 defense.

1 MR. OVERHOLT: Okay.

2 THE COURT: All right. And I don't know what
3 they're going to allege or how they're going to allege
4 it, or what, but you -- that's all that information on
5 the ticket is supposed to be able to provide you, with
6 information of when, where, and what you did wrong.
7 Okay? So, at least you can say you're not getting
8 blindsided by anything. If you need more information
9 than that after you see it, then you can file a motion
10 asking for more information; or, we can, since you're
11 representing yourself, you can call Mr. Manning and say,
12 "Hey, what -- what are you -- what are you saying I did?"
13 All right. "What -- what is -- what is the -- how did I
14 violate it?" And he'll tell you.

15 MR. OVERHOLT: Okay.

16 THE COURT: All right. I'm sure he -- I'm sure
17 he'll tell you. So, if not, then that's where I come in
18 and say, Judge. And then he can make an argument. We
19 don't have tell him -- or he's going to have to tell you
20 sometime. All right. I don't think that's his answer,
21 but.

22 Understand?

23 MR. OVERHOLT: I understand. Thank you for
24 clarifying.

1 THE COURT: You're welcome. So, I'll reserve the
2 ruling on the Motion to Dismiss and we will set this for
3 further bench trial. And, if you're filing motions,
4 we'll set that for July 24th at 2:30. I order you to be
5 here on that date and time. I do have to advise if you
6 fail to appear on that date, the trial could take place
7 in your absence.

8 MR. OVERHOLT: I'll be there.

9 THE COURT: I know you will be there. The law
10 requires me to advise you of it. All right.

11 MR. OVERHOLT: Thank you.

12 THE COURT: So, if you're there the trial could
13 take place in your absence and it will be binding upon
14 you as if you are present. And, if you're found guilty
15 at that hearing when you're not there, then the
16 sentencing can take place in your absence and that also
17 will be binding upon you as if you're present. All
18 right.

19 MR. OVERHOLT: Thank you.

20 THE COURT: You're welcome. So, I -- we will see -
21 - will resume this on -- we'll start the trial hopefully
22 on July 24th at 2:30. I will see you then.

23 MR. OVERHOLT: Thank you.

24 THE COURT: All right. You're welcome. All right.

1 Court is in recess until 2:30.

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3 (End of proceedings.)

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COLES COUNTY, ILLINOIS

I, JODA SHICK, a **Court Specialist** for the Fifth
Judicial Circuit of Illinois, do hereby certify that the
foregoing Report of Proceedings was electronically recorded
and is a true, correct, and complete transcript so taken at
the time and place hereinabove set forth to the best of my
ability based on the quality of the electronic recording.

Joda Shick
Court Specialist

22 Dated this 20th day of October, 2025.