

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
Case File No.: 2012250422 CR

STATE OF NORTH CAROLINA,

Plaintiff,

v.

CHRISTOPHER PIERCE,

Respondent.

HEARING

Held at Mecklenburg Co. Courthouse
800 East Fourth Street
Room 4310
Charlotte, North Carolina 28202

On Friday, April 26, 2013
Beginning at 2:40 p.m.

Judge Presiding:

Honorable Louis Trosch, Jr.

For the Plaintiff:

Matthew Lewis, Esq.
Assistant District Attorney
Leslie Sample, Esq.
Assistant District Attorney
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Charlotte, NC 28202

For the Respondent:

(Pro se)
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P R O C E E D I N G S

(at 2:40 p.m.)

MR. LEWIS: Your Honor, this is Christopher Pierce. He's coming in at 3, 4, 5, and 6 on the docket you have in front of you.

THE COURT: 45?

MR. LEWIS: 44, 45, 46.

THE COURT: Okay.

MR. LEWIS: I believe there's a motion, if I can approach?

THE COURT: Is there a waiver in the file?

MR. LEWIS: Well, I don't think -- the last note that I've been shown is that Mr. Pierce is going to hire an attorney.

THE COURT: Did you hire a lawyer, sir?

MR. PIERCE: I did not.

THE COURT: Are you intending to hire a lawyer?

MR. PIERCE: I did seek counsel. It just seemed that I didn't require it to --

THE COURT: So you're going to represent yourself?

MR. PIERCE: Well, I was making a special appearance today. I didn't feel that I needed representation.

THE COURT: So you're representing yourself?

MR. PIERCE: Well, not necessarily. It's -- I provided notice that I'm challenging jurisdiction, so I'm here on special appearance. I do also have a court reporter. I

1 just wanted you to know.

2 THE COURT: Well, we'll handle your motion but -- and then
3 we'll handle the case but are you representing yourself,
4 because you have to represent yourself for the motion as
5 well as the charge. It's all together.

6 MR. PIERCE: Well, I haven't made a motion, and I am here on
7 special appearance.

8 THE COURT: I thought you said you did make a motion.

9 MR. PIERCE: I did not make a motion. I provided notice --

10 THE COURT: I thought he filed a motion.

11 MR. LEWIS: Well, he noticed the Court of a challenge to the
12 jurisdiction to --

13 THE COURT: You've got to have a motion to challenge the
14 jurisdiction. I'm going to ask you if it's a motion to
15 dismiss based on the State not having province of Court,
16 I guess. I don't know what the motion is, but either
17 the State or the Court not having jurisdiction. You are
18 representing yourself on that, right?

19 MR. PIERCE: (No response.)

20 THE COURT: You don't have a lawyer to represent you, is
21 that correct?

22 MR. PIERCE: Well, this is a pretrial issue. There's not
23 really an issue before the Court until the State can
24 prove jurisdiction.

25 THE COURT: Do you have a robe on?

1 MR. PIERCE: No.

2 THE COURT: Okay. Then listen to what I'm saying. I get to
3 decide what this is about, all right? This is a case.
4 You have made a motion, just as any attorney would, with
5 respect to these charges. You are charged with
6 resist/delay/obstruct, you are charged with having an
7 expired registration tag, and failing to carry a
8 driver's license while operating a motor vehicle, that
9 is, no operator's license. So those are three offenses.

10 Two of them are Class 2s and one is -- they're all
11 Class 2 offenses. Any motion related to those charges,
12 such as You don't have jurisdiction to hear this matter,
13 Judge, are connected to these charges. So from the time
14 you're charged until you are convicted, and even through
15 your right to appeal, you have the right to a lawyer.
16 But you don't have to hire a lawyer. If you can't
17 afford a lawyer you can request a public defender be
18 appointed to represent you or you can choose to
19 represent yourself.

20 So as I understand it from what you're saying, you
21 wish to represent yourself, and you have filed a notice
22 that the Court does not have jurisdiction, which I am
23 the going to treat as a motion to dismiss the charges on
24 the grounds that the State doesn't have jurisdiction to
25 proceed. But before we address that, you need to let me

1 know whether you're going to represent yourself, whether
2 you're going to hire a lawyer, or whether you want a
3 public defender.

4 MR. PIERCE: If it goes to trial, then I suppose my only
5 option is to represent myself since I don't have counsel
6 with me today.

7 THE COURT: So you wish to represent yourself?

8 MR. PIERCE: It if proceeds to trial, but at this point I'm
9 here on special appearance for this challenge to
10 jurisdiction.

11 THE COURT: What do you mean by special appearance?

12 MR. PIERCE: Well -- (examines document.)

13 THE COURT: You are challenging jurisdiction, correct? Is
14 that correct?

15 MR. PIERCE: That's right.

16 THE COURT: That is a motion related to this case. And I'm
17 going to ask you one more time and then I'm just going
18 to presume that you're waiving your right to counsel.
19 Are you going to represent -- as I understand it, you
20 wish to represent yourself with regard to that motion,
21 is that correct?

22 MR. PIERCE: Well, again, I'm not making a motion to dismiss
23 at this moment. I am simply --

24 THE COURT: Challenging the Court's jurisdiction.

25 MR. PIERCE: Right.

1 THE COURT: Right. And if I don't have jurisdiction what is
2 it that you want me to do with this case?

3 MR. PIERCE: Well, I suppose the conclusion would be a
4 dismissal if there's no jurisdiction.

5 THE COURT: So you're asking that I dismiss the case, aren't
6 you, because I don't have jurisdiction, right?

7 MR. PIERCE: (No response.)

8 THE COURT: Correct?

9 MR. PIERCE: That would be correct.

10 THE COURT: All right, so you wish to represent yourself on
11 that matter, is that correct?

12 MR. PIERCE: Just to answer your question a minute ago,
13 according to North Carolina law, special appearance to
14 question jurisdiction, the Court will only hear a party
15 on special appearance for the purpose to dismiss an
16 action or to vacate the judgment for want of
17 jurisdiction. An appearance for any other purpose other
18 than to question the jurisdiction is considered general.
19 So that's what I mean by special appearance.

20 THE COURT: So you wish to represent yourself for both your
21 special and your general appearance, correct?

22 MR. PIERCE: Sure, if jurisdiction can be established by the
23 State.

24 THE COURT: So I need you to sign a waiver indicating that
25 you're going to represent yourself, both on your special

1 appearance for your motion -- you're calling it a
2 special appearance -- and what you're calling your
3 general appearance for trial that indicates that you
4 wish to waive your right to counsel and represent
5 yourself.

6 MR. PIERCE: At the point that it changes from special
7 appearance to general appearance I might be able
8 entertain that, but at this point I can't sign a waiver
9 and lose any of my standard rights.

10 THE COURT: All right. Will you mark, Madam Clerk, that he
11 is refusing -- that you wish to represent yourself,
12 correct?

13 MR. PIERCE: If it proceeds to trial, sir.

14 THE COURT: (To the Clerk) Can we mark that he is refusing
15 to sign a waiver and just mark it on a blank waiver that
16 he was offered a chance, an opportunity to spell it out?

17 (To the Respondent) You're not willing to sign
18 that waiver, is that correct?

19 MR. PIERCE: I don't feel that that waiver is going to help
20 me with my challenge to jurisdiction at this point,
21 which is the matter at hand. And I do also have a
22 Memorandum of Law that I'd like to serve in court as
23 well to the Assistant District Attorney as well as the
24 clerk.

25 THE COURT: Again, I'm going to say this one more time,

1 you're representing yourself, correct?

2 MR. PIERCE: Do I need to represent myself to appear to make
3 special appearance to challenge jurisdiction?

4 THE COURT: You can either choose to represent yourself, you
5 can hire a lawyer, or you can ask for a public defender.

6 MR. PIERCE: I don't feel I need a lawyer.

7 THE COURT: You have three choices. I understand that you
8 don't feel like a lawyer is necessary and you want to
9 represent yourself, correct?

10 MR. PIERCE: But this is a pretrial issue, and jurisdiction
11 needs to be established before the matter is --

12 THE COURT: You're right. It's a pretrial issue, you're
13 right. It's a pretrial issue challenging jurisdiction.
14 Okay. You still need a lawyer.

15 MR. PIERCE: Just to get an answer from the State on
16 jurisdiction?

17 THE COURT: Yes. You don't have to have a lawyer. You can
18 represent yourself. That's all I'm trying to establish,
19 if you want to represent yourself with regard to this.

20 MR. PIERCE: Well, if a plea is required, yes, I'll
21 represent myself, but I am not appearing here as a plea.
22 I am appearing to --

23 THE COURT: You're challenging the State, I get you, but you
24 still, again, have three choices. From the very
25 beginning of the case, when the police first stopped you

1 they wanted to question you, you could have asked for a
2 lawyer at that point, right?

3 MR. PIERCE: (No response.)

4 THE COURT: You could have asked for a lawyer, and that's
5 way before we get to trial. As soon as the State
6 exercises their authority against you and puts you under
7 arrest or charges you with an offense, you have three
8 choices. You can represent yourself and waive the right
9 to a lawyer, you can hire an attorney to represent you
10 because you do have that right, or you can ask for a
11 public defender if you cannot afford, or an appointed
12 counsel if you cannot afford a lawyer, and that will be
13 paid for at the State's expense. As I understand it,
14 you don't want a lawyer for your challenge to
15 jurisdiction, and when we proceed or if we proceed with
16 a trial, if that's denied, you also wish to represent
17 yourself in your trial, correct?

18 MR. PIERCE: Well, that's what I'll have to do if it
19 proceeds to trial. I have no choice really, since I'm
20 here on my own.

21 THE COURT: So you want to represent yourself, right?

22 MR. PIERCE: If it proceeds to trial.

23 THE COURT: Okay. I'll take that.

24 (To the Clerk) Make sure you put the actual
25 charge number and case number.

1 (To the Respondent.) All right, sir, so you now
2 -- I'm taking our discussion and I've marked it on a
3 waiver. You'll need to sign a waiver at this point
4 based on these charges that your rights were explained
5 to you based on these offenses and you have chosen to
6 represent yourself. Understanding that, the maximum for
7 all three of these is 60 days in jail for each of these
8 three offenses, all right? You understand that?

9 MR. PIERCE: Right.

10 THE COURT: And you're intending to represent yourself,
11 right?

12 MR. PIERCE: At trial, right.

13 THE COURT: Well, you're representing yourself now too,
14 aren't you?

15 MR. PIERCE: I don't feel that necessarily I am representing
16 myself.

17 THE COURT: Do you have a ghost who's representing you?

18 MR. PIERCE: I'm making a special appearance. I'm just
19 making a special appearance. I'm not even sure if --

20 THE COURT: You're going to make the argument yourself,
21 right?

22 MR. PIERCE: Well, really -- well, the argument is here in
23 my Memorandum of Law, so the paperwork speaks for
24 itself.

25 THE COURT: Somebody has to present that, right? You don't

1 have a ghost that's going to present that. Somebody is
2 going to have to give me that, right?

3 MR. PIERCE: I am right here.

4 THE COURT: Who is the person that's going to give me that?

5 MR. PIERCE: I'm here presently.

6 THE COURT: You don't want a lawyer to give me that; you
7 want to give me that, is that right?

8 MR. PIERCE: (No response.)

9 THE COURT: I'm just trying to find out if you want a lawyer
10 or not. It's not a hard question.

11 MR. PIERCE: I'm trying to cooperate and work with you-all
12 as best I can.

13 THE COURT: Not really.

14 MR. PIERCE: I'm doing my best. I realize this is not
15 necessarily the status quo, but I'm doing my best here.
16 I'm not a lawyer.

17 THE COURT: Do you want to hire a lawyer to represent you or
18 not?

19 MR. PIERCE: No, I don't want to hire a lawyer today.

20 THE COURT: Okay. So what's your argument?

21 MR. PIERCE: Well, the argument is here and there's a copy
22 for the other lawyer as well.

23 THE COURT: And what do you want to say, sir, about this?

24 MR. PIERCE: I'm sorry, what was the question?

25 THE COURT: What do you want to say about your motion, your

1 notice challenging jurisdiction? Why? Do you want to
2 be heard with regard to this or do you just want me to
3 read this and rule on it?

4 MR. PIERCE: Well, the Memorandum of Law and in support of
5 the notice is quite detailed. The notice itself
6 actually does contain a good bit of information as far
7 as the argument goes, and I'd just like the Court to
8 know that that notice was first served on March 15th of
9 this year, so it has been in the file since that time.
10 A Memorandum of Law is very detailed, and there's also
11 an addendum to that Memorandum of Law of as well, and it
12 contains additional information about the argument with
13 exhibits. This has been before the Court before, and
14 you know, jurisdiction has not been established yet so
15 that's why I'm here today.

16 THE COURT: Mr. Lewis, do you want to respond with respect
17 to why the State has jurisdiction in this matter?

18 MR. LEWIS: Because you are a person in the state of North
19 Carolina. I'll leave it at that.

20 MR. PIERCE: Because I'm a person in the state? Sorry, I
21 just want to make sure I heard that.

22 THE COURT: I believe that's what he said.

23 MR. PIERCE: A person by the 15th Amendment U.S. citizen
24 person, or a freeman of North Carolina as detailed in
25 the original Constitution of North Carolina 1776? I

1 think he's speaking about the Constitution of North
2 Carolina here in 1868 and revised in 1971. Again, I'm
3 not a citizen of North Carolina, the 12th state of North
4 Carolina. November 21, 1789 is when it entered the
5 Union. I believe he is assuming that I am a person/
6 citizen of the 39th state entered June 25, 1868.
7 Clearly that's incorrect, and the paperwork speaks to
8 that in volumes.

9 There's an early succinct paragraph in the
10 Addendum to Memorandum of Law in which --

11 THE COURT: Do you want to let me finish reading the first
12 part and then you can tell me about the addendum?

13 MR. PIERCE: Okay.

14 THE COURT: (Examines document.) You're not a big fan of
15 Abraham Lincoln, are you?

16 MR. PIERCE: Well, there is the truth and there is history.

17 THE COURT: Now, tell me about your addendum. You say
18 there's a succinct paragraph in the addendum?

19 MR. PIERCE: I'd say page 2, the first paragraph I think
20 speaks --

21 THE COURT: That begins, "The State's position"?

22 MR. PIERCE: Yes.

23 THE COURT: That's not succinct. I mean, that paragraph, or
24 just the first sentence?

25 MR. PIERCE: I think one, the paragraph, you know, it's a

1 lot less than 40 pages, so.

2 THE COURT: So this boils down your argument, basically?

3 MR. PIERCE: Well, it's very significant, simply put.

4 MR. LEWIS: Your Honor, against my better judgment I'm going
5 to respond here, and that just means there are no terms
6 for this, that the State has already ruled with Judge
7 Matt Osmond's statement clearly that the Court has
8 jurisdiction over Respondent, which I'm assuming is the
9 person standing next to me. This is an untimely motion.
10 This motion has already been decided twice. Two judges
11 have already ruled in support of that, Judge.

12 THE COURT: Let me rule on it again. I'm going to find that
13 the State has got jurisdiction in this matter, and we'll
14 go ahead and proceed at this point.

15 I'm going to deny your motion, sir. I know you
16 call it a notice of court, but I'm going to find that
17 this Court has jurisdiction in the state of North
18 Carolina and the District Attorney's Office does have
19 the authority to prosecute this matter on behalf of the
20 State of North Carolina.

21 MR. PIERCE: And that's exactly why I --

22 THE COURT: Sir, do you want to make a defense?

23 MR. LEWIS: Sir, may I approach?

24 (Mr. Lewis approaches the Bench.)

25 MR. LEWIS: On one count of resisting officer, one count of

1 driving with an expired registration --

2 MR. PIERCE: I object to the --

3 MR. LEWIS: -- one count of failure to carry a driver's
4 license while operating a motor vehicle.

5 MR. PIERCE: Sir, I object to the proceeding and I want to
6 go back to look at the paragraph once again. The
7 paragraph speaks to the fact that the State --

8 MR. LEWIS: I believe Your Honor has already decided, and it
9 would be inappropriate --

10 THE COURT: I've already ruled on that, sir, so we're now in
11 what you call your general appearance. We are now
12 trying the case.

13 MR. PIERCE: But the State has not answered the
14 jurisdictional challenge.

15 THE COURT: I've ruled that they do have jurisdiction, so --

16 MR. PIERCE: But on what grounds, though? Where is the
17 evidence? There has to be some type of gist to that,
18 you know, decision. No body of evidence shows that, you
19 know, jurisdiction has been established.

20 THE COURT: Essentially, the North Carolina Constitution,
21 the United States Constitution, and the North Carolina
22 -- General Statutes of North Carolina I have found that
23 this matter falls under the jurisdiction of the District
24 Court of North Carolina to be prosecuted by the District
25 Attorney's office. So go ahead, Mr. Pierce.

1 MR. PIERCE: The issue is I'm not challenging statutory
2 jurisdiction. I am challenging territorial
3 jurisdiction. There is not a clear title -- chain of
4 title of custody for the soil, right?

5 THE COURT: Right. I understand. You've made your
6 argument. I've reviewed your notice, I've listened to
7 your argument, and I have denied the motion.

8 So do you want to arraign the defendant?

9 MR. PIERCE: Sir, the burden of proof is on the State and
10 the State hasn't complied, which is pretty much
11 maintaining the precedent that's been established so
12 far.

13 THE COURT: Your objection is noted for the record. How do
14 you plead on resisting a public officer, failure to
15 carry a driver's license, and driving with expired
16 registration, guilty or not guilty?

17 MR. LEWIS: Still waiting for a response from the State and
18 I haven't received it.

19 THE COURT: Are you pleading guilty or not guilty, sir?

20 MR. PIERCE: As I've stated before, I am not here to plead.
21 I am here for an answer.

22 THE COURT: All right, I'll take that as a not guilty plea.
23 You pay proceed.

24 MR. LEWIS: The State calls Officer Kodad.

25 MR. PIERCE: Well, instead of a plea entered for me against

1 my will, I would much rather take an Alford plea if a
2 plea is being taken.

3 MR. LEWIS: The State has no problem with an Alford plea.

4 MR. PIERCE: Right. Yes, but that's a coerced plea because,
5 you know, you've got to --

6 THE COURT: No one is coercing you.

7 MR. PIERCE: -- railroading me.

8 THE COURT: You have the right to a trial, you have the
9 right to plead guilty. You're asking a plea pursuant to
10 Alford, which means that you are willing to accept a
11 conviction in this matter based upon the evidence that
12 the State has against you but you don't wish to
13 affirmatively plead guilty. That's fine if that's what
14 you want to do.

15 MR. PIERCE: I don't want answers being put in for me. I
16 realize, you know, I'm not going to get an answer from
17 the State because this is time and time again that's
18 exactly how it goes no matter what argument and evidence
19 and affidavits and everything that I file. The same
20 thing happens every time I come into court, so I feel
21 like there's really nothing that I can do here to remedy
22 this issue. I don't feel like, you know, I feel like
23 I'm doing a great courtesy by showing up here and at
24 least doing my duty as an honorable man, but I'm not
25 going to get an answer from the State, represented by

1 Matt Lewis, as far as jurisdiction goes. You know, in
2 my opinion, in my view there is --

3 THE COURT: You really hate my ruling on that. I understand
4 that.

5 MR. PIERCE: There's nothing before the Court right now
6 until jurisdiction can be proven.

7 THE COURT: If you were wearing the robe you would have
8 found that the Court didn't have jurisdiction, but I'm
9 wearing the robe and I'm finding that they do. So we're
10 moving to the next stage of the proceedings, which is a
11 trial.

12 MR. PIERCE: And seriously, with all due respect --

13 THE COURT: You are either going to plead guilty or not
14 guilty or I am going to take from your silence that you
15 are pleading not guilty and I'm going to force the State
16 to present sufficient evidence to prove their case.

17 MR. PIERCE: I just don't feel that you as a judge are being
18 impartial in this matter because the prosecutor has
19 presented nothing. The prosecutor has said I am a
20 person. There is no evidence there whatsoever that
21 shows --

22 THE COURT: This is the third time you have made this
23 argument, right?

24 MR. PIERCE: But the State hasn't said anything in response,
25 and the State is prosecuting these actions.

1 THE COURT: You believe that they have to.

2 MR. PIERCE: The State is bringing this Complaint. I didn't
3 ask for this, but I am responding.

4 THE COURT: They have done what they need to do.

5 MR. PIERCE: They have done nothing. They've done nothing
6 but make a statement and make a claim, and they're both
7 frivolous and I'm here to respond. I made a special
8 appearance to challenge their jurisdiction.

9 THE COURT: Are you going to testify, sir, or not?

10 MR. PIERCE: That's not why I'm here today, to testify.

11 THE COURT: You're not going to testify about what happened?
12 It's your right to testify or not testify.

13 MR. PIERCE: As far as I'm concerned, what happened is not
14 substantive. There's nothing before the Court until
15 jurisdiction can be established. I am not a citizen of
16 your state.

17 THE COURT: Okay. Anybody that's going to testify in this
18 matter place their left hand on the Bible and raise your
19 right hand.

20 (Officer Kodad is sworn by the Clerk
21 and takes the stand.)

22 DIRECT EXAMINATION BY MR. LEWIS

23 Q. Officer, would you state your name for the record,
24 please?

25 A. Yes. K.S. Kodad.

1 Q. How are you employed, Officer Kodad?

2 A. Charlotte-Mecklenburg Police Department.

3 Q. How long have you been at CMPD?

4 A. It'll be ten years in May.

5 Q. And on or about November 20th of last year you were
6 licensed, sworn in, and on duty at your jurisdiction?

7 A. Yes.

8 Q. At any time did you come in contact with someone known
9 to you as Christopher Pierce?

10 A. Yes.

11 Q. If Mr. Pierce is in the court today could you point to
12 him and identify him by an article of clothing?

13 A. He's sitting right over there with a button-up shirt and
14 a black tie.

15 Q. All right, sir. So the record will reflect that the
16 officer has identified Mr. Christopher Pierce.

17 THE COURT: Let it so reflect.

18 Q. Officer Kodad, we'll get to the specifics of your action
19 in a moment, but where was it you came in contact with
20 Mr. Pierce?

21 A. It was the 200 block of South Tryon. I was dispatched
22 to an accident call.

23 Q. Is that a public street or highway?

24 A. Yes.

25 Q. Is that in Charlotte, North Carolina?

1 A. Yes.

2 Q. Is that in Mecklenburg County?

3 A. Yes.

4 Q. Is that in your jurisdiction as a police officer of
5 CMPD?

6 A. Yes, sir.

7 Q. Please tell us what happened that night when you
8 arrived.

9 A. I went out to speak to both parties involved in the
10 collision. When I was requesting the driver's license
11 from Mr. Pierce, he said he didn't have to show me
12 anything, that he was not a citizen, basically, of North
13 Carolina, and he handed me an unofficial identification.

14 Q. What did that identification look like, if you remember?

15 A. It had North Carolina on it and his name, date of birth,
16 but it was not a DMV license or ID.

17 Q. He was involved in a car accident?

18 A. It was a collision, front collision, with another
19 vehicle.

20 Q. What kind of car was Mr. Pierce driving?

21 A. It was a pickup truck, and let me see exact. (Examines
22 document.) It was a Nissan pickup.

23 Q. Did he ever make any statements to you about that
24 vehicle or tell you what had happened in the accident?

25 A. Just that he was driving and then he hit the other

1 vehicle.

2 Q. Was what he said consistent with what you saw at the
3 scene?

4 A. Yes.

5 Q. Do you remember running his name or information through
6 DMV?

7 A. Yes.

8 Q. We'll start specifics then. Did you do anything about
9 it? Was there a driver's license number or anything
10 like that?

11 A. There's something that came up which matched the name,
12 date of birth, which appeared that it was probably going
13 to be him in the DMV system, but I wasn't certain at
14 that time.

15 Q. But was he ever able to produce to you a valid driver's
16 license?

17 A. No.

18 Q. Was he ever able to provide you with a valid driver's
19 license number that you were able to check?

20 A. No.

21 Q. Were you ever fully able to ascertain that he had a
22 license?

23 A. No. I was pretty certain that he did not have a
24 license.

25 Q. But at no point did you find the driver's license?

- 1 A. No, no physical license.
- 2 Q. Did you also run the registration of the vehicle?
- 3 A. Yes.
- 4 Q. Did you run it through DMV?
- 5 A. Yes.
- 6 Q. What did you get back from DMV?
- 7 A. That I don't have with me, if he was the owner or not.
- 8 Let's see. (Examines documents.) Yeah, he was the
- 9 owner, because I wrote that there was an expired
- 10 registration.
- 11 Q. He was or wasn't the owner?
- 12 A. As far as I could tell he was an owner.
- 13 Q. Did the registration come back valid?
- 14 A. It was expired.
- 15 Q. Do you recall when it expired?
- 16 A. No, I do not.
- 17 Q. How much time did you spend out there talking to
- 18 Mr. Pierce?
- 19 A. After I released the other party it was another 15
- 20 minutes or so.
- 21 Q. Okay. Describe that interaction with him.
- 22 A. I continued to try to say, "I need to see a driver's
- 23 license, something with a picture on it; otherwise, you
- 24 need to answer all my questions, identification
- 25 questions. There's something that appears that it could

1 possibly be you in the DMV system, but I have to ask you
2 more questions first."

3 Q. Did he answer any of those questions?

4 A. He started to answer maybe one about the middle name or
5 something like that, but then he refused to answer
6 additional questions that I asked him.

7 Q. Was there just one other car that he was involved in an
8 accident with?

9 A. Yes.

10 Q. How many people were in that car, do you remember?

11 A. It was a parked fire truck, actually. No one inside of
12 it.

13 Q. Was there anyone with Mr. Pierce?

14 A. It was just him.

15 Q. Had a crowd gathered or anything like that when you were
16 out there with him?

17 A. I don't recall.

18 Q. Do you remember if there was anybody else out there
19 other than you and Mr. Pierce?

20 A. There were a lot of pedestrians but nothing related to
21 the accident.

22 Q. Did you or any other officer try to do an accident
23 report?

24 A. I would do an accident report, yes.

25 Q. Did your actions with Mr. Pierce in any way hinder or

1 impair your ability to sufficiently do the accident
2 report?

3 A. Yes.

4 Q. How so?

5 A. Just to try to determine who was driving the vehicle.
6 He did say it was him, but I had to identify him in the
7 DMV system and he wouldn't answer my questions to
8 determine if this was him.

9 Q. Did he ever make any statements to you about not having
10 cooperated with you or anything like that?

11 A. He just said he does not have to answer my questions.

12 Q. I may have asked this a moment ago, but how much time
13 did you spend out there with him?

14 A. About 15 to 20 minutes.

15 Q. Was it a serious accident?

16 A. It was minor.

17 Q. Is 15 minutes longer than you thought it would take to
18 on a car accident?

19 A. Yes.

20 Q. Why did it take longer?

21 A. Again, just trying to determine who he was, what his
22 identity was. Usually that would be the end of it but I
23 said, "I need to speak with you to verify this is who
24 you are since you do not have a North Carolina driver's
25 license or a picture ID that's official."

1 Q. So were you even able to -- when you do come to
2 accidents do you run people's driver's license for
3 warrants?

4 A. We run -- we usually can run warrants, although I didn't
5 this day but we run the driver's license and vehicle.

6 Q. Were you running any of that with Mr. Pierce?

7 A. I ran what I thought was him, but again, I couldn't
8 determine for sure. There were several Christopher
9 Pierces.

10 Q. Do you know, were you ever able to be fully sure of the
11 person you had in front of you?

12 A. Like I said, I was pretty certain. I was not 100
13 percent because I didn't have a picture.

14 Q. Had you had a driver's license or some other personal
15 background information would you have been able to be
16 absolutely positive?

17 A. Yes.

18 Q. Did you place the defendant under arrest?

19 A. Yes.

20 Q. What were the charges?

21 A. Resist/obstruct/delay, failure to present a license, and
22 expired registration.

23 MR. LEWIS: I have no further questions,
24 Your Honor.

25 THE COURT: Do you have any questions?

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MR. PIERCE: I do.

CROSS-EXAMINATION BY MR. PIERCE

Q. Just so the record shows, I do carry a picture ID (indicating), and I did present it to you without as much as --

MR. LEWIS: Objection. He's giving testimony now.

THE COURT: You have to ask him questions right now. You're going to get a chance to testify in just a minute if you'd like to do that.

MR. PIERCE: I don't really feel that it's necessary for me to testify on the stand, but I do want the Court to know that I did show a picture ID.

MR. LEWIS: Objection. He's testifying.

THE COURT: You're testifying. You can either ask questions of this officer or choose to testify. You don't have to testify. You can't make statements about the facts at issue from where you are. So you're either going to have to ask him questions about it or you're going to have to come take the witness stand.

Q. Officer Kodad, are you aware of the difference between a freeman of North Carolina and a 14th Amendment U.S. citizen?

1 MR. LEWIS: Objection to the relevance,
2 Your Honor.

3 THE COURT: Sustained.

4 Q. Did I state at the scene that I was a citizen of the
5 first state of North Carolina as my ID card did say that
6 I was a state citizen?

7 A. Something to that effect. I'm not entirely sure, but
8 you said something like that.

9 Q. But I did state -- I said this pretty clearly, I think,
10 when we were interacting and I was cooperating as best I
11 could, as I did say several times during that --

12 MR. LEWIS: Objection to the question.

13 It wasn't a question.

14 Q. It was a question.

15 THE COURT: Did he do that?

16 A. He cooperated by -- he stood there. He did not exhibit
17 a license though or answer all my questions,
18 identification questions.

19 Q. Well, I do remember --

20 MR. LEWIS: Objection; testifying.

21 THE COURT: You can ask him questions.

22 Q. When you made the decision to arrest, also it was
23 because I didn't state my eye color, but it was on the
24 ID. Clearly it does have eye color.

25 MR. LEWIS: Objection. He's testifying,

1 Your Honor.

2 Q. Well, my question is if my ID had eye color on it why
3 did you need to ask me when you can look in my face and
4 see my eye color and also look at my ID that had my eye
5 color on it. Why was that an issue?

6 A. I wanted to hear from you what your eye color was to
7 match it up with the DMV system, if it was possible to
8 match it up in the system, to see if that was you.

9 Q. Going back to the judge mentioning my rights, though, I
10 don't recall you reading me my rights, and he didn't
11 mention that I was able to say I don't necessarily --
12 I'm not wanting to answer these questions without my
13 lawyer present. You never advised me on that and you
14 never read me my rights.

15 THE COURT: Wait. That's a question,
16 right? You want to know if he advised you of your
17 rights?

18 Q. So why didn't you advise me of my rights? I clearly
19 wasn't wanting to answer all those questions.

20 THE COURT: Let him answer the question.

21 A. I did not advise you of your rights at this point.

22 THE COURT: I think his question was why,
23 is that correct? The second question was why?

24 A. That's correct.

25 THE COURT: The second question was why.

1 A. I do not need to read you your rights on an accident
2 scene.

3 Q. You never read me my rights.

4 A. Correct.

5 Q. So the whole issue here is my rights being encroached
6 upon.

7 MR. LEWIS: Objection.

8 Q. Well, I object to not getting an answer from the State
9 about jurisdiction.

10 MR. LEWIS: Objection; relevance.

11 THE COURT: We've already been over that,
12 sir. You've objected to that previously. Right
13 now you have to ask questions, and you continue to
14 make statements.

15 MR. PIERCE: Well, there really aren't
16 any questions. The questions I had --

17 THE COURT: You can step down, Officer.
18 (Witness exits the stand.)

19 MR. LEWIS: That's the showing for the
20 State, Your Honor.

21 THE COURT: Do you wish to testify, sir?

22 MR. PIERCE: I've presented everything
23 already that I feel is relevant to this matter.

24 THE COURT: You don't want to testify,
25 all right.

1 Does the State want to be heard?

2 MR. LEWIS: No, sir, Your Honor.

3 THE COURT: Do you want to be heard, sir?

4 In closing do you want to be heard? Do you have
5 anything you want to say?

6 MR. PIERCE: Sure. I'll speak to that.

7 (Respondent stays at his seat.)

8 MR. PIERCE: Again, I would like to state that I am here on
9 special appearance to challenge jurisdiction. The State
10 has provided nothing in response to that. The burden of
11 proof is on the State. So as far as the color of law
12 is, I'd say that's quite dishonorable. I feel that I am
13 doing everything that I can to cooperate and I'm
14 receiving no response whatsoever from the State, and I
15 find that to be disappointing, to put it mildly. I
16 don't feel that what I have presented has even been
17 considered or examined thoroughly today in my special
18 appearance. So based on North Carolina Constitution of
19 1868 and 1971, I imagine the assumption is that I am a
20 citizen of your state, but clearly I am not. And I'll
21 be seeking an answer in Superior Court, I suppose.

22 THE COURT: Okay. Defendant is guilty of all three counts.

23 Do you want to be heard in regard to sentencing?

24 Mr. Lewis, is he a 1?

25 MR. LEWIS: No, sir, a prior level 2, a registration

1 conviction and a possible conviction February 12th.

2 THE COURT: What are the sentences for those?

3 MR. LEWIS: For this year? The last one was a fine and
4 court cost.

5 THE COURT: You're digging yourself a hole, sir.

6 MR. LEWIS: It was in Superior Court.

7 THE COURT: That was in Superior Court?

8 MR. LEWIS: Yes, sir.

9 THE COURT: All right, we'll consolidate this on the resist.
10 They're all 2s, right? Aren't they all 2s?

11 CLERK: Yes.

12 THE COURT: The class 2 level 2 sentencing to 45 days in the
13 custody of the Mecklenburg County Sheriff's Department.
14 I'll suspend that sentence based on 12 months
15 unsupervised probation on the condition that he pay the
16 costs of court and a \$100 fine. You're appealing that
17 decision, right?

18 MR. LEWIS: (No response.)

19 THE COURT: You're appealing this, right? You said you
20 wanted to be heard in Superior Court, is that right?

21 MR. PIERCE: Yes, I would like to.

22 THE COURT: All right, then note his appeal. The bonding
23 condition can remain the same. Actually, there were no
24 bonding conditions. This was a citation, correct?

25 MR. LEWIS: It was an arrest.

1 THE COURT: It was? Did you arrest him?

2 OFFICER KODAD: Yes, sir.

3 THE COURT: Okay, it was an arrest. How much time did you
4 spend in jail, sir?

5 (Clerk confers with The Court.)

6 THE COURT: There's no credit. He was released the same
7 day. They're going to give you a court date in Superior
8 Court to come back and challenge this or whatever it is
9 you want to do with that.

10 MR. LEWIS: And you need him to sign that he's appealing, is
11 that correct?

12 CLERK: Correct.

13 MR. PIERCE: There is an identical matter already in
14 Superior Court, and I would like to combine them at this
15 point.

16 THE COURT: Well, they'll do that in Superior Court, but I
17 don't have jurisdiction in Superior Court. I really
18 don't have jurisdiction as to when they schedule their
19 cases. And if I tried, one of my colleagues would come
20 down pretty hard on me. So you need to enter your
21 Notice of Appeal, formally enter your Notice of Appeal
22 by signing that document.

23 MR. PIERCE: Is there any way that we can ensure that there
24 is going to be a combination, because I don't have that
25 much time to come back here and appear on multiple

1 cases. It's the same issue.

2 THE COURT: Can I tell you, if you continue the road you're
3 going down and you're going to be in court a lot and
4 you're going to be in jail more and more. I'm just
5 telling you.

6 MR. PIERCE: This will take five minutes to answer if the
7 State would just be honorable and answer the question.

8 THE COURT: The State disagrees with you, and you don't like
9 the fact that they disagree with you so you -- I'm not
10 going to get into an argument. I've made my ruling. So
11 if you want the case to be appealed you've got to sign
12 the appeal. I don't know any other case. Has that
13 already been disposed of?

14 MR. PIERCE: No, Your Honor. It was appealed to Superior
15 Court on February 12th.

16 THE COURT: Oh, on February 12th. Can you-all make sure
17 that they do consolidate it, because my guess is that
18 they're going to want it -- your D.A.s and the judge are
19 going to want to consolidate it as well. They're not
20 going to want to hear --

21 MR. LEWIS: Once we fill out our appellate information I
22 will make a note on the appeal paperwork that there is
23 pending matters, and I think regardless of miracles the
24 rules will be followed over there. I can't ensure that,
25 but I don't see why --

1 MS. SAMPLE: No, we can't guarantee that, but we can
2 certainly make a notation.

3 THE COURT: If you would, I will also note -- I'll let our
4 judicial assistant, Linda Brooks, for the Superior Court
5 know as well so she knows that need to be calendared
6 together. So that's the best that we can do. The
7 District Attorney is going to notify their -- the
8 prosecutors in Superior Court, and I'm going to notify
9 the judicial assistant that works with whatever Superior
10 Court judge that's going to be assigned that those are
11 consolidated. I don't have the authority, though, to
12 set their dockets.

13 MR. LEWIS: Nor do I at this time.

14 THE COURT: Nor set their dockets in Superior Court, because
15 we are in District Court.

16 MR. PIERCE: I appreciate that. I also, though, need to
17 make a point here. I cannot make this date. I am
18 already here for an a.m. session.

19 THE COURT: What date?

20 MR. PIERCE: May 13th I'm here for an a.m. session that
21 matter I just spoke of. So this is a p.m. session you
22 are giving me. I can't do this due to work. If I miss
23 work I'm losing my job.

24 MR. LEWIS: We can absolutely make these the same day.

25 MR. PIERCE: It is the same date. I have an a.m. and this

1 is now a p.m. session. I cannot do both.

2 THE COURT: Is the other one scheduled May 13th in the
3 morning?

4 MS. SAMPLE: It is, Your Honor.

5 THE COURT: We'll put it on in the morning, May 13th in the
6 morning. Everybody will be pleased with that.

7 MR. PIERCE: Thank you. I appreciate that.

8 THE COURT: Okay, now, that's assuming that you're
9 appealing. You've got to sign the appeal if you're
10 appealing the case.

11 (Counsel and The Court confer with
12 the Clerk off the record.)

13 THE COURT: Okay, so we've got the appeal straight? We've
14 got it straight, all right. So May 13th at 10:00 in
15 Superior Court. 5170, is that what we said? Okay.

16 (WHEREUPON, the hearing was adjourned at
17 3:26 p.m. and the record was closed.)

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STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

CERTIFICATE OF REPORTER

I, SALLY W. LOWRANCE, CVR-M, Notary Public, do hereby certify that the foregoing hearing was taken and transcribed under my supervision and direction, that the parties were present as stated, and that I am not of counsel for, or in the employment of any of the parties to this action, nor am I interested in the outcome of this action.

I do further certify that the foregoing 36 pages constitute a true and accurate transcript of the testimony.

This the 10th day of May 2013.

SALLY W. LOWRANCE, CVR-M

Notary #19971610098