



**OFFICE OF THE COUNTY PROSECUTOR
JENNIFER WEBB-MCRAE
CUMBERLAND COUNTY PROSECUTOR**

**Linda L. Lawhun
Executive Assistant Prosecutor**

**Harold B. Shapiro
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Chief of Investigators**

43 Fayette Street
Bridgeton, New Jersey 08302
Telephone (856) 453-0486
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June 8, 2012

Mr. John Paff, Chairman
New Jersey Libertarian Party
P.O. Box 5424
Somerset, New Jersey 08875-5424

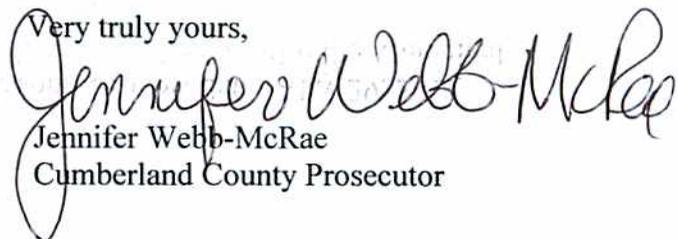
RE: Complaint against the Millville Municipal Prosecutor

Dear Mr. Paff:

I have reviewed your letter to Assistant Prosecutor John Grunow dated May 29, 2012 regarding the above-captioned matter. I have directed that he speak with the Millville Municipal Prosecutor and remind her of our previous discussions on preemption.

I trust these actions will help address the concerns of your organization. Thank you for bringing this matter to our attention.

Very truly yours,


Jennifer Webb-McRae
Cumberland County Prosecutor

JWM/hal



New Jersey Libertarian Party

Preempted Ordinance Repeal Project

John Paff, Chairman

P.O. Box 5424

Somerset, NJ 08875-5424

Phone: 732-873-1251 - Fax: 908-325-0129

Email: paff@pobox.com

MAY 29, 2012

John W. Grunow Jr., Esq.
Cumberland County Prosecutor's Office
43 Fayette Street
Bridgeton, NJ 08302

We write to complain that, in spite of Prosecutor Webb-McRae's August 13, 2010 letter to us (Exhibit Page 1) and her August 16, 2010 memorandum to all municipal prosecutors in Cumberland County (Exhibit Page 2), the Millville Municipal Court Prosecutor is still downgrading statutory charges to preempted municipal code violations.

Attached as Exhibit Pages 3 and 4 is the CDR issued in State v. Randy E. Harry, 0610-S-2011-001991. The defendant is the Rev. Randy Harry who, prior to his resignation, served as senior pastor at Trinity United Methodist Church in Marmora (see Exhibit page 5.) Both the CDR and the plea agreement form (Exhibit page 6) show that Reverend Harry's original, statutory charge of loitering for the purpose of engaging in prostitution¹, contrary to N.J.S.A. 2C:34-1.1 was "downgraded" to a violation of Millville Code § 52-13C, which states:

It shall be unlawful for any person to engage in disorderly conduct.
Any person who shall do any of the following shall be guilty of
disorderly conduct

* * *

(C) Any person who shall cause, engage in or provoke any brawl,
fight or riotous conduct so as to endanger the health or life or
property of another person.

¹ For the record, the Libertarian Party believes that prostitution, provided that it is engaged in between (or among) consenting adults, should not be illegal. Thus, if we had our way, the Rev. Harry should not been subjected to police scrutiny even if he had actually engaged a prostitute rather than merely "prowling" in a public place with the alleged intent to engage one. It strikes as that Rev. Harry, who apparently has some means and reputation, may have been able to swing this illegal plea deal and thus avoid a criminal record while others who lack those means would have suffered the full consequences of the statute even if their objectionable conduct was identical to that in which Rev. Harry allegedly engaged. Thus, while we would rather see a repeal of all offenses *mala prohibita* (e.g. prostitution, drug possession, gambling, etc), short of that we would like to see these busy-body, victimless offenses charged and prosecuted consistently. Our thought is that when the wealthy and well connected complain about the harshness of such laws, perhaps our legislators (who for some reason care about and listen to the rich more than the poor) will start to see the sense in repealing offenses *mala prohibita* outright.

Since Title 2C, Chapter 33 of the Criminal Code “is intended to comprehensively address street behavior and other conduct in public places which may disturb citizens and disrupt peaceful society,” State v. Paserchia, 356 N.J. Super. 461, 466 (App. Div. 2003), Millville Code § 52-13C is preempted² and unenforceable. Also, there is no factual nexus between “wander[ing], remain[ing] or prowl[ing] in a public place with the purpose of engaging in prostitution or promoting prostitution,” which is the conduct prohibited by the statute and “caus[ing], engag[ing] in or provok[ing] any brawl, fight or riotous conduct” as proscribed by the City Code.

While I’m sure Rev. Harry is happy to avoid having an entry placed on his criminal record and Millville is happy to get \$783 in easy money without having to conduct a trial, the Millville Municipal Court is supposed to be a serious judicial tribunal and not the “Let’s Make a Deal” game show³. Since Prosecutor Webb-McRae’s August 16, 2010 memorandum hasn’t dissuaded Millville from utilizing illegal plea bargains, would you impose some sterner form of measure that will get Millville’s attention?

Thank you for your attention to this matter. We look forward to hearing from you.

Sincerely,



John Paff

cc. Mayor Shannon and City Commissioners (*via e-mail to Susan.Robostello@millvillenj.gov*)
Hon. Steven S. Neder, J.M.C. (*via e-mail to Kimberly.Hamlyn@millvillenj.gov*)
Millville Prosecutor Lauren Van Embden (*via e-mail to Kimberly.Hamlyn@millvillenj.gov*)
Carol A. Cummings, MDM (*via e-mail to Carole.Cummings@judiciary.state.nj.us*)

² Almost laughable is Millville’s attempt, at Code § 52-32, to simply “find and declare” that its disorderly conduct regulations “are not preempted by state law.” Millville apparently also believes that West Orange, whose code was found to be invalid by the Paserchia court, could have thereafter passed an ordinance similar to Millville’s § 52-32 and have thus nullified the effect of the court’s determination.

³ Also part of the deal was Rev. Harry’s avoidance of the compulsory contributions to the Violent Crimes Compensation and Safe Neighborhood Funds.



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43 Fayette Street
Bridgeton, New Jersey 08302
Telephone (856-453-0486)
Fax (856)-451-1507

August 13, 2010

Mr. John Paff, Chairman
New Jersey Libertarian Party
P.O. Box 5424
Somerset, New Jersey 08875-5424

RE: Complaint against the Bridgeton Municipal Prosecutor

Dear Mr. Paff:

I have reviewed your letter dated April 1, 2010 regarding the above-captioned matter. I have also discussed this issue with members of my staff. As a result, I have prepared a Memorandum on this subject and have caused it to be sent to all Cumberland County Municipal Prosecutors. A copy of this Memorandum is enclosed for your ready reference. It is my belief that this approach will address your general concerns over the downgrading of charges.

With regard to the specific examples pertaining to the Bridgeton municipal prosecutor, my office has been in contact with the City Solicitor for the City of Bridgeton. That office is also aware of your concerns and has taken steps to see that new problems do not arise.

I trust these actions on the part of my office will help lessen the concerns of your organization. Thank you for bringing this matter to our attention.

Very truly yours,

**Jennifer Webb-McRae
Cumberland County Prosecutor**



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TO: ALL MUNICIPAL PROSECUTORS CUMBERLAND COUNTY
FROM: JENNIFER WEBB-MCRAE CUMBERLAND COUNTY PROSECUTOR
RE: PREEMPTION
DATE: AUGUST 16, 2010

JWM

It has come to the attention of this office that some municipal prosecutor's may be engaging in improperly downgrading certain criminal or traffic offenses to municipal ordinance violations. I refer you to the attached directive from former New Jersey Attorney General Peter Verniero which addresses this practice. Our research has determined that this directive is still in effect. I ask that all Cumberland County Municipal Prosecutors make every effort to obey this directive and avoid improper downgrades. Kindly direct any questions or concerns you may have to Assistant County Prosecutor John Grunow at the telephone number listed above. His direct extension is 3381.

COMPLAINT - SUMMONS

COMPLAINT NUMBER

0610 S 2011 001991

THE STATE OF NEW JERSEY
VS.

RANDY E HARRY

MILLVILLE MUNICIPAL COURT
18 S HIGH ST
MILLVILLE NJ 08332-0609
(856) 825-7000 COUNTY OF: CUMBERLAND

ADDRESS: 2404 S. 2ND ST.
MILLVILLE NJ 08332

of CHARGES: 1 CO-DEFTS: POLICE CASE #: 11023078

DEFENDANT INFORMATION
SEX: M EYE COLOR: BROWN DOB: 05-27-1960
DRIVER'S LIC. #:
SOCIAL SECURITY #:
TELEPHONE #: (856) 327-4649 DL STATE: NJ SBI #:

COMPLAINANT NAME: DANIEL AYARS
18 SOUTH HIGH STREET
ATTN WARRANTS
MILLVILLE NJ 08332-060

By certification or on oath, the complainant says that to the best of his/her knowledge, information and belief the named defendant on or about 11-11-2011 in **MILLVILLE CITY**, CUMBERLAND County, NJ did: **WITHIN THE JURISDICTION OF THIS COURT, DID KNOWINGLY AND/OR PURPOSELY COMMIT THE OFFENSE OF LOITERING FOR PROSTITUTION. SPECIFICALLY BY WANDERING IN HIS VEHICLE WITH THE PURPOSE OF ENGAGING IN PROSTITUTION. THIS IN VIOLATION NJSA 2C:34-1.1.**

in violation of:

Original Charge	1) 2C:34-1.1	2)	3)
Amended Charge			

CERTIFICATION:

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

Signed: DANIEL AYARS Date: 11-11-2011

The complaining witness is a law enforcement officer and a judicial probable cause determination is not required prior to the issuance of this Complaint-Summons.

SUMMONS:

YOU ARE HEREBY SUMMONED to appear before this court to answer this complaint. If you fail to appear on the date and at the time stated below, a warrant may be issued for your arrest.

DATE TO APPEAR: 12-05-2011 TIME: 10:30am DANIEL AYARS 11-11-2011
Signature of Person Issuing Summons Date

- Domestic Violence - Confidential Related Traffic Tickets or Other Complaints Serious Personal Injury/ Death Involved

- Special conditions of release:
 No phone, mail or other personal contact w/victim
 No possession firearms/weapons
 Other (specify):

ORIGINAL
Exhibit Page 3

COMPLAINT - SUMMONS (Court Action)

COMPLAINT NUMBER

0610 S 2011 001991

STATE V.

RANDY E HARRY

FTA Bail Information		Date Bail Set:	Amount Bail Set: \$ _____ by: _____		<input type="checkbox"/> Bail Recog. Attached
Released on Bail	R.O.R.	Committed Default	Committed w/o Bail	Place Committed:	
Date of First Appearance: 12-05-2011		<input type="checkbox"/> Advised of Rights by _____			Defendant Desires Counsel: <input type="checkbox"/> Yes <input type="checkbox"/> No
Prosecuting Attorney Information			Defense Counsel Information		
Name:			Name:		
State	County	Municipal	Other	None	Retained
				Public Def	Assigned
				Waived	Other
Original Charge	1) 2C:34-1.1		2)		3)
Amended Charge	5213CO.				
Waiver Indt/Jury					
Plea/Date of Plea	Plea: <u>G</u>	Date: 1-25-12	Plea:	Date:	Plea: Date:
Adjudication (* see code)	Finding Code: <u>G</u>	Date: 1-25-12	Finding Code:	Date:	Finding Code: Date:
Jail Term	Jail time credit	Susp. Imp.	Jail time credit	Susp. Imp.	Jail time credit
Probation Term		Susp. Imp.		Susp. Imp.	Susp. Imp.
Cond. Discharge Term					
Community Service					
D/L Suspension Term					
Fines/Costs	Fines: 750	Costs: 33	Fines:	Costs:	Fines: Costs:
VCCB/SNSF	VCCB:	SNSF:	VCCB:	SNSF:	VCCB: SNSF:
DEDR/Lab Fee	DEDR:	LAB:	DEDR:	LAB:	DEDR: LAB:
CD Fee/Drug Ed Fnd	CD:	DAEF:	CD:	DAEF:	CD: DAEF:
DV Surch/Other Fees	DV:	Other:	DV:	Other:	DV: Other:
Restitution	Beneficiary: _____				

Miscellaneous Information, Adjournments, Companion Complaints, Co-Defendants, Case Notes:

- * Finding Codes
- 1 - Guilty
 - 2 - Not Guilty
 - 3 - Dismissed - Other
 - 4 - Guilty but Merged
 - 5 - Dismissed-Rule
 - 6 - Dismissed Lack of Prosecution
 - 7 - Dismissed - Pros Motion/Vic Req
 - 8 - Conditional Discharge
 - D - Dismissed- Prosecutor Discretion
 - M - Dismissed- Mediation
 - P - Dismissed-Plea Agreement
 - S - Disposed at Superior
 - W - Dismissed-False ID

1-25-12

JUDGE'S SIGNATURE

DATE

ORIGINAL - Initial Page 4

Page 2 of 7

MS/CDR 6/1/2005

REQUEST TO APPROVE PLEA AGREEMENT

DEFENDANT'S NAME:

Reedy Henry
(Please Print)

Complaint #	Original Charge #	Amended To	G/D/M*	Recommended Sentence/Comm
185576	39.3-66		D	
52011-1991	39.34.1.1	40-52-13	G	Five 5750

*G = Guilty; D = Dismissed; M = Guilty But Merged

DEFENDANT'S ACKNOWLEDGEMENT

I understand the nature of the amended charge(s) against me and the consequences of my guilty plea. I understand and agree voluntarily to the terms of the plea agreement set forth above.
I further understand that if the Judge does not accept my guilty plea or agree with the recommended sentence, I can withdraw it and plead not guilty.

1/25/12
Date

[Signature]
Defendant

PROSECUTOR'S ACKNOWLEDGEMENT

The defendant and I, as the prosecutor in this case, reached plea agreement in accordance with R. 7-6-2 and with the Gu Operation of Plea Agreements in the Municipal Courts of New Jersey. I represent to the Court that the original charge(s) listed did an accident resulting in personal injury to any person.

1/25/12
Date

[Signature]
Prosecutor

Trinity pastor, Rev. Randy Harry, says he will resign

Last Updated on Sunday, 06 May 2012 13:35 Written by Columb Higgins Sunday, 06 May 2012 13:31



Recommend

Tweet < 1

0

Church members said Rev. Randy Harry, the senior pastor at Trinity United Methodist Church in Marmora, announced his resignation Sunday.

Harry has been at the center of controversy after news leaked of his arrest in Millville last November for loitering to engage in prostitution. The charge was later amended to disorderly conduct.

Teachers said that when news broke of the charges, Harry threatened to fire any teachers at the Trinity Nursery School who had discussed the matter. During a meeting on Wednesday, May 2, head teacher Jane Guyon said Harry called her after the arrest was reported and told her to assemble her staff. Harry said whoever had leaked the information to the press would be fired, said Guyon.

Members of the public yelled down church leaders at several points during the meeting. Parents of children at the school said they were angry they had not been told of the arrest until April.

Chris Hayes, a member of the church council and a former lay leader when Harry joined Trinity, agreed that parents should have been notified earlier and said the church council would convene soon to decide what to do about the situation.

Sources said the church council was set to meet Sunday and vote on whether to retain Harry as pastor. It is not clear at this time whether that vote took place.

Harry joined the church as senior pastor in October, 2011.

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