

IN THE SUPERIOR COURT OF GORDON COUNTY  
STATE OF GEORGIA

STATE OF GEORGIA,

vs.

JERRY WILLIAM JONES

Defendant.

\*  
\* Criminal Case No.  
\* 16471  
\*  
\*  
\*  
\*

FILED  
Clerk Superior Ct., Gordon County  
JUL 18 2005

CONSOLIDATED MOTION TO QUASH AND BRIEF IN SUPPORT THEREOF  
ON BEHALF OF THE GEORGIA DEPARTMENT OF DRIVER SERVICES

COMES NOW, the Georgia Department of Driver Services (hereinafter "DDS"), a non-party movant to the above-styled action, by and through Counsel, Thurbert E. Baker, Attorney General for the State of Georgia, and makes this its Motion to Quash and Brief in Support thereof, by showing and stating as follows:

1.

Movant received the instant Subpoena for the Production of Documents via fax on or about July 13, 2005. (Movant's Exhibit One). Said document requires Movant to appear on July 18, 2005 with certain documents at a court hearing. To date, this subpoena has not been served on Movant or its counsel.

2.

Defendant seeks "a certified list of all residents of Gordon County, Georgia who were the holders of drivers' license or personal identification cards...on January 1, 2004 as well as "a certified document indicating the number of residents of

Gordon County who were the holders of drivers' license or personal identification cards...on January 1, 2004."

3.

Movant DDS shows this Court that the instant Subpoena should be quashed pursuant to O.C.G.A. § 24-10-22 as unreasonable and oppressive. Specifically, Movant DDS shows this Court that the requested documents which Movant is directed to bring to the hearing on July 18, 2005 do not currently exist and will take in excess of two weeks to create.

4.

The instant request is unreasonably oppressive and burdensome. See O.C.G.A. § 24-10-22. While Movant may be able to comply with the request at a date in the future, it is impossible to complete the search of its records and produce the documents with the requested data in less than two full working days. Defendant has made no offer to assist in defraying any costs associated with the creation of the documents or the expenses associated with this search. Thus, this request is unreasonable and oppressive and should be quashed pursuant to O.C.G.A. § 24-10-22.

5.

Defendant has also failed to serve the instant subpoena upon Movant, as required by O.C.G.A. § 24-10-23. Even though indicated on the fax cover sheet that the subpoena was

being sent "via certified mail," neither Movant nor its counsel has received a certified mailing containing the subpoena. Additionally, neither Movant nor its counsel has received the subpoena from a competent process server. As such, the subpoena is invalid until it is properly served as defined in O.C.G.A. § 24-10-23.

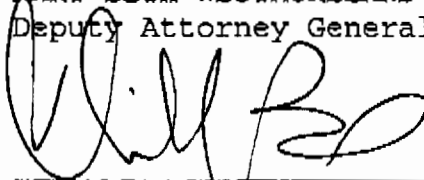
CONCLUSION

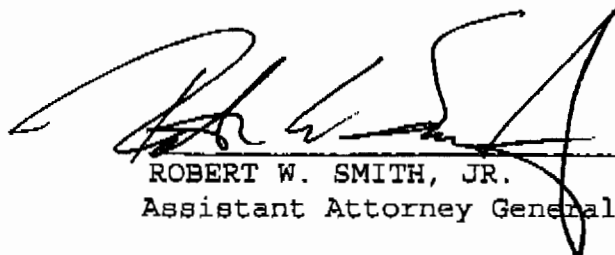
WHEREFORE, for all the above and foregoing reasons, the instant Subpoena should be quashed as set out herein.

Respectfully submitted,

THURBERT BAKER 033887  
Attorney General

MARY BETH WESTMORELAND 750150  
Deputy Attorney General

  
CHRISTOPHER S. BRASHER 078330  
Senior Assistant Attorney General

  
ROBERT W. SMITH, JR. 663218  
Assistant Attorney General

Please serve:

ROBERT W. SMITH, JR.  
Assistant Attorney General  
40 Capitol Square, S.W.  
Atlanta, Georgia 30334-1300  
(404) 657-3981

**CERTIFICATE OF SERVICE**

I do hereby certify that I have served the within and foregoing pleading, prior to filing the same, by depositing a copy thereof, postage prepaid, in the United States Mail, properly addressed upon:

E. Michelle Drake  
104 Marietta Street, N.W., Suite 200  
Atlanta, GA 30303

AND VIA FACSIMILE TRANSMISSION.  
FAX NO. (404) 651-5709

T. JOSEPH CAMPBELL  
135 W. Cherokee St. #368  
Cartersville, GA 30120

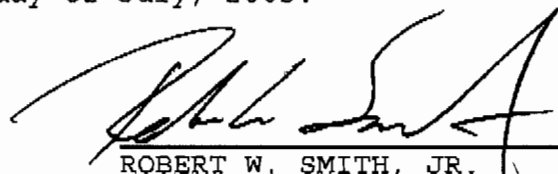
AND VIA FACSIMILE TRANSMISSION.  
FAX NO. (770) 387-5085

COURTESY COPY TO:

Judge G. Carey Nelson  
Cherokee Judicial Circuit  
135 West Cherokee Avenue, Suite 340  
Cartersville, GA 30120

AND VIA FACSIMILE TRANSMISSION.  
FAX NO. (770) 606-2241

This 15<sup>th</sup> day of July, 2005.

  
\_\_\_\_\_  
ROBERT W. SMITH, JR.  
Assistant Attorney General

No. 0191 P. 3

STATE OF GEORGIA

STATE OF GEORGIA  
COUNTY

to Georgia Department of Motor Vehicle

You are hereby required to be and appear at the Gordon County Superior Court before

G. Carey Nelson

Judge of

Superior Court in Roman Archer of the Gordon County Deputies of GSO of State Capital on the  
18 day of July 20 05 and to bring with you two said Court order documents also and so  
address by the defendant In a certain case pending in said Court between

State of Georgia and Terry William Jones

Case No. 10471

The following are hereby subpoenaed:

1. A certified list of all residents of Gordon County, Georgia who were the holders of drivers' licenses or personal identification cards issued by the Department of Motor Vehicle Safety pursuant to the provisions of Chapter 5 of Title 40 on January 1, 2004, in electronic form if available.

Such list should include the names, addresses, birthdates, and sexes of all such individuals.

2. A certified document listing the number of residents of Gordon County, Georgia, who were the holders of drivers' licenses or personal identification cards issued by the Department of Motor Vehicle Safety pursuant to the provisions of Chapter 5 of Title 40 on January 1, 2004, in electronic form if available.

Persons shall not appear in this form.

Witness, G. Carey Nelson

Judge of said Court

the 13 day of July 2005

John R. ...

Clark Superior Court

My commission expires on the 1st day of January 2006

Georgia Capital Defender

125 Peachtree Street, Suite 900

Atlanta, GA 30303-1727

Phone: 404-739-5451

Jul. 13. 2005 1:06PM

Movant's Exhibit One

