

IN THE COUNTY COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

STATE OF FLORIDA,

vs.

JON MICHAEL BALLARD
CRISTY BARNETT BARRICK
JOYCE BOYD
DAWN MARIE BRILL
GLENN MICHAEL CLUNAN
JENNIFER GAYLE CREWS
JAMES MICHAEL DONO
STEFANIE FAWLEY
JOSHUA JARRED GIBSON
LISA A. JUNE
MIKHAIL KOGAN
LAURIE ANN LARGE
ROGERS LINDA
JEAN A. McMORROW
PHILIP N. NDUM
SANDRA VICTORI PIQUET
MARK ALAN RESNICK
VICENT SIMMONS
ANTHONY STEWARD
JOHN KEVIN TYLER

CASE NO.: 2014-TR-000443
2014-TR-002814
2014-TR-002386
2014-TR-001789
2014-TR-001311
2014-TR-001540
2011-TR-006399
2014-TR-001492
2013-TR-004521
2014-TR-001537
2014-TR-001546
2014-TR-001361
2014-TR-000693
2014-TR-001331
2014-TR-002170
2014-TR-000112
2014-TR-001837
2014-TR-003013
2014-TR-000081; 2014-TR-000082
2014-TR-001609

Defendant. /

ORDER TO SHOW CAUSE

THIS CAUSE, having come before the Court on the City of Palm Coast's Request for Dismissal of Citation for a red light camera infraction, which was issued pursuant to Florida Statute 316.0083, "The Mark Wendall Traffic Safety Program Act." The City of Palm Coast, having been noticed and having failed to appear, and having heard from several of the above listed Defendants, and being otherwise advised in the premises, the Court finds as follows:

1. In each citation, the City of Palm Coast has requested dismissal of a Uniform Traffic Citation pursuant to Florida Statute 318.18(15)(c), which reads as follows:

If a person who is cited for a violation of s.316.074(1) or s. 316.075(1)(c)(1)., as enforced by a traffic infraction enforcement officer under s. 316.0083, presents documentation from the appropriate governmental entity that the traffic citation was in error, the clerk of court may dismiss the case. The clerk of court shall not charge for this service.

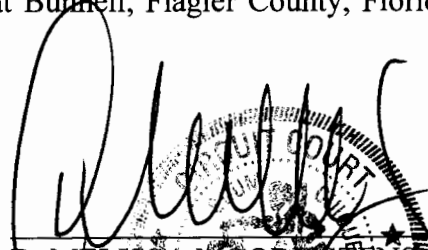

2. The Clerk denied the City's request, as the Statute cited is permissive, not mandatory, and these cases were scheduled for hearing on the City's request for dismissal.
3. The City of Palm Coast has failed to appear for their own Motion to Dismiss hearing, despite notice, said hearings being scheduled for Wednesday April 30, 2014 at 11:00am.
4. The Court called the City of Palm Coast on speakerphone in open Court, specifically Liliana Filipe, Data Entry Clerk, who transmitted the UTC dismissal requests, and was told that the City was aware of the hearings but that they did not feel they needed to appear.
5. The Court explained that the hearing was set on their Motion and therefore the City's presence was required.
6. The Court was told that a supervisor would be present ten (10) minutes later, and the Court, having waited thirty (30) minutes with still no appearance by the City of Palm Coast, continued the hearings with the entry of this Order.
7. The Court explained to the drivers present in Court the process for Notices of Violation being sent to the first named registered owners of vehicles alleged to have violated 316.0083, and the subsequent transmittal of a Uniform Traffic Citation to the Clerk of Court if such is not timely paid, which then generates the Court's involvement in said cases. Once the Uniform Traffic Citation has been generated by the City of Palm Coast or their designee, the City of Palm Coast does not have the legal authority to accept payment from drivers.
8. The Court heard from several drivers in these matters, whom all agreed that they had paid the City of Palm Coast the full amount due under a Notice of Violation, after a Uniform Traffic Citation had been issued and processed by the Clerk of Court. Furthermore, the drivers all stated that they were told by the City of Palm Coast that their cases ***would be dismissed in court.***
9. The Court finds that the Florida Statute cited by the City of Palm Coast does not **REQUIRE** the Clerk of Court to dismiss the infractions, even if the citation was genuinely issued in error.

10. The Court further finds that the City of Palm Coast does not have the authority to guarantee drivers that their Uniform Traffic Citations will be dismissed pursuant to Florida Statute 318.18(15)(c).

IT IS THEREFORE **ORDERED AND ADJUDGED** as follows:

1. The City of Palm Coast is directed to provide to the Court within fourteen (14) days of the date of this Order an auditable list containing the names and citation numbers of all persons whom have been issued a Uniform Traffic Citation by the City of Palm Coast, or their designated entity, which have been filed with the Clerk of Court, and which thereafter the City of Palm Coast accepted payment from the driver, despite the matter being transferred to the Clerk of Court.
2. All Defendant's listed herein, if their privilege to drive has been suspended, shall have any suspensions associated with these infractions temporarily reinstated without payment of penalty, pending the City's compliance with the Court's Order in paragraph 1.
3. The City of Palm Coast, is hereby ordered to appear before Judge D. Melissa Moore Stens, Kim C. Hammond Justice Center, Courtroom 404, 1769 E. Moody Blvd., Bunnell, FL 32110 on the 30th day of MAY, 2014 at 9:00 a.m., to show cause, if any, why they should not be adjudged in indirect civil contempt of this Court for failure to appear at the hearing on their Motion as well as to ensure compliance with the Court's Orders.
4. **Failure of the CITY OF PALM COAST to comply with this Order may result in further contempt sanctions.**

DONE AND ORDERED in Open Court at Bunnell, Flagler County, Florida, this 30th day of April, 2014.


D. MELISSA MOORE STENS
County Court Judge


Copies to:
L. Robin McKinney, Esq., Attorney for the City of Palm Coast
Defendants