Discover how 'Judge' Ronald Ploetz lies and distorts the truth to hide his and other public employees crimes

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"Freedom of speech is a principal pillar of a free government; when this support is taken away, the constitution of a free society is dissolved, and tyranny is erected on its ruins. An evil magistrate intrusted with power to punish for words, would be armed with a weapon the most destructive and terrible. Under pretence of pruning off the exuberant branches, he would be apt to destroy the tree."


Benjamin Franklin

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Judges Duty

While this article is lengthy, it is required to truly understand what kind of individual Cattaraugus County Court 'Judge' Ronald Ploetz is and just how corrupt he really is, because unlike the completely corrupt District Attorney's Office a judge has the ability to shut down the corruption with the stroke of a pen, which instead Ploetz does the exact opposite and is nothing but an extension of the DA's Office. A judge is supposed to be fair and unbiased in this article we will show you how 'Judge' Ronald Ploetz is in fact the exact opposite and we prove it with his own words and the court cites he uses to justify his exceptionally serious misconduct. In People v Kochan, an ongoing case in this county, we will also use other cites to further substantiate it. We will show you how Ploetz commits perjury and wars against the very document that gives him his alleged authority; the Constitution of the United States of American which allegedly gives him the power over you. **Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the Supreme Law of the Land. A judge is engaged in acts of treason.** [Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401 (1958)]...In Rankin v. Howard, (1980) 633 F.2nd 844 the court noted; Common/Case law has shown that when a judge acts outside of his capacity judicial immunity is not absolute. In this matter the Judge failed and/or refused to abide by specific constitutional mandates as so described within this Motion. **The Court knew, or should have known that it lacked authority (jurisdiction) to deprive claimant of his Rights and therefore immunity is lost. Further the assertion of federal rights, when plainly and reasonably made, are not to be defeated under the name of local practice** [David v. Wechler, 263 U.S. 22, 24; NAACP v. Alabama, 375 U.S. 449]; The presence of malice and the intention to deprive a person of his civil rights, under color of law is wholly opposed with judicial function. **When a judge acts intentionally and knowingly to deprive a person of his constitutional rights he exercises no discretion to individual judgment; he acts no longer as a judge, but as a 'minster' of his own prejudices** [Pierson v. Ray 3986 U.S. 547 (1967)]. No one in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government from the highest to the lowest are creatures of the law and are bound to obey it [Buckles v. King County 191 F.3d 1127 via United States v. Lee, 106 U.S. 196, 220 (1882)].

Background

Mr. Kochan's first contact with the corrupt elements of Cattaraugus County and local agencies occurred in 2014 when he was illegally stopped and then taken to the local police station by two EPD cops and was handcuffed to a chair by the EPD Matthew Albanese . Mr. Kochan then committed the most hideous crime ever imaginable, the crime of remaining silent which he was then charged for. That's right, in Cattaraugus County New York you can be charged with remaining silent.

The violence started just after the 'public' employees all started talking among themselves and the largest of the four, Deputy Bryan H Schwabenbauer, walks over and stands right in front of Mr. Kochan, then in a angered manner yells at him to "stand up", still handcuffed he did as he was told fearing the worse was yet to come. Then Schwabenbauer started **yelling again "look me in the eyes", as Mr. Kochan started looking at him** Schwabenbauer **grabbed him by the chin. snapped Mr. Kochan's head back, then hit him will a body blow so hard it set him flying backwards. The last thing Mr Kochan remembered before waking up in the chair was something hitting his back. When he awoke he thought he had just relived the torture he had endured decades earlier in** Chautauqua County**. It would later be discovered that** Schwabenbauer **has a history of exceptionally serious misconduct and was**

actually sued in federal court for it and the county actually rewarded him for it by giving him a pay raise**.** Mr. Kochan would some end up in the Cattaraugus County Jail and would be denied any type of medical assistance while there. The jail would destroy the video's of his stay/booking in violation of State law CO-2 11.[958]. The first judge would soon voluntarily recuse himself from the matter. Once that occurred by law the DA has to file for a change of venue within 45 days. 'DA' Rieman failed and/or refused to file anything within the time allowed. She would file a fraudulent motion to change venue in County Court 60 days after the recusal, 15 days after the time allowed and Ploetz would grant it even though he was made well aware by Mr. Kochan that the law did not allow it pursuant to CPL §170.15(3)(a).

When this was occurring Mr. Kochan pointed out to Ploetz and the other courts he was sent to that the four accusatory instruments, three consisting of 'simplified traffic information' charges were not signed and the one remaining 'information' charge was for remaining silent. Based on that, the case had to be terminated, which it was not. 'ADA" William Preston Marshall would then file a CPL § 730.30 motion which forced Mr. Kochan to see fifteen mental health experts, most at his own expense, and was threaten with long term incarceration in the process. A 730.30 motion claims that an individual is incapable of representing himself or assisting their Attorney.

In Western New York you can be found mentally competent for murdering your husband, chopping him up into little pieces and throwing his remains in a manure pile for the pigs to eat, **but you will be found incompetent if you represent yourself and win cases.** Mr. Kochan would win a DMV Refusal hearing case based on the 2014 event by representing himself, a feat that even seasoned attorney's find difficult. **All the experts agreed, that is the real experts we mean. There were two that did not, the two Cattaraugus County hired. All the real experts found that there was nothing wrong with Mr. Kochan. One doctor even admonished the judge for sending him to their location. 'Judge' Ronald Ploetz was aware of all of this and refused to do anything about it. He actually help perpetuate the crimes visited upon Mr. Kochan by Rieman, Marshall and Ensell. Ensell was the first 'ADA' on the case.**

The present 2016 case started off with three traffic tickets. Mr. Kochan was on his way home after meeting with another victim of county corruption and had on him important documents that he had received from the other victim. While trying to stay away from any type of contact with 'law' enforcement on his way home due to the prior criminal conduct of the local enforcers he was blocked in by two patrol cars. Upon coming to a safe complete stop he had guns drawn on him in two seconds. Within another 25 seconds he either had his window shot out or knocked out by the cops and was then violently pulled from his car, thrown to the ground, knocked out and stomped upon by the cops. Ploetz would claim the authority of the cops to pull guns on Mr. Kochan was based on CPL 140.50 [3], which requires a felony, or misdemeanor crime defined by the penal code to draw guns. Mr. Kochan was never charged with a misdemeanor crime defined by the penal code until one mysteriously appeared over three months later. He was then handcuffed and searched while he was unconscious. Once he regained consciousness he was pulled to his feet causing more injury. He was taken to the hospital and the hospital then attempted to cover up the serious injuries he had sustained by not even mentioning in the medical reports, which could have included a serious head injury. He had blood flowing from his left ear, a sign of a skull fracture or major concussion. The police body cam would show him leaving the hospital with blood still flowing from his ear and the medical report would list his 'auditory canals' as 'clear'. We have the videos and the medical records that prove it and will be releasing them shorty.

The three charges were;

1. DWI Common Law VTL 1192.3
2. Inadequate lights VTL 375-2(a)1
3. Failure to signal stop VTL 1163-C

The charges were in the form of three simplified traffic informations. The BAC test results came back at 0.04%, well under the legal limit even after the blood tech spiked the test results. The hospital test showed .05% and the forensic test showed .04%. **The tech who drew the blood soaked Mr. Kochan's arm down with isopropyl and apparently ethyl alcohol and handed placed the unsealed vials in the test kit box and handed the box over to the cop unsealed.** Ethyl alcohol could also have also been injected into the vial. This was spelled out in detail in Mr. Kochan's Omnibus Motion paragraph 47. The other is the Failure to signal stop VTL 1163-C charge. The cop claimed that Mr. Kochan failed to signal stop when in fact he was boxed in by the cops. The cop car in front hit his brakes. The video clearly shows that. So, what did the cop want him to do slam into to back of his patrol car instead of coming to a slow stop?

'DA' Rieman and 'ADA' Ensell knew they were in trouble, so they decided to do something that never had been done before in the history of the county. They decided to take the matter before a Grand Jury for three traffic violations. The only authority/law that allows a District Attorney to take a matter before the Grand Jury is CPL § 170.20 which mandates that a "misdemeanor charge in question" be pending against a Defendant in order to allow the District Attorney to place it before a grand Jury;

CPL § 170.20 States;

"(2) At any time before entry of a plea of guilty to or commencement of a trial of an accusatory instrument specified in subdivision one, the district attorney may apply for an adjournment of the proceedings in the local criminal court upon the ground that he ***intends to present the misdemeanor charge in question to a grand jury with a view to prosecuting it by indictment*** *in a superior court."*

The only problem is Rieman did not bring the only misdemeanor charge that existed to the grand Jury. She brought a "Obstruction of Government Administration" and six traffic violation charges. The issue with that is Mr. Kochan was never charged with "Obstruction of Government Administration", nor was Mr. Kochan charged with five of the remaining charges.

There are two other issues that were also present. The Notice of Presentation (CPL §190.50 notice) Mr. Kochan's Attorney was served with only used words found in the statutes, and those words are found everywhere and for each statute a specific course of conduct must occur for a person to be charged in violation of the statute. For example, the one misdemeanor 'charge' Mr. Kochan was never charged with was "Obstruction of Government Administration", and it appears in three statutes;

1. 195.05 Obstructing governmental administration in the second degree. A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act…
2. 195.07 Obstructing governmental administration in the first degree. A person is guilty of obstructing governmental administration in the first degree when he commits the crime of obstructing governmental administration in the second degree by means of interfering with a telecommunications system thereby causing serious physical injury to another person.
3. 195.08 Obstructing governmental administration by means of a self-defense spray device. A person is guilty of obstructing governmental administration by means of a self-defense spray device when, with the intent to prevent a police officer or peace officer from performing a lawful duty, he causes temporary physical impairment to a police officer or peace officer by intentionally discharging a self-defense spray device, as defined in paragraph fourteen of subdivision a of

section 265.20 of this chapter, thereby causing such temporary physical impairment.

Not only what he not charged with the Misdemeanor 'obstruction', if you use the wording found on the Presentment, it appears that five of the other 'charges' he was not charged with either. The failure to signal could have been one of ten other charges. In all Mr. Kochan would have had to defend himself of over twenty five charges.

So which one was it? One of the other allegations was listed as "Failure to signal" which could be ten different violations. By Rieman or Ensell purposely writing the Notice in this manner she committed fraud and it did not allow Mr. Kochan to be properly noticed and prepare if he wished to be called before the grand Jury to defend himself. More proof of their vindictive vile nature. The second issue was the fact that the simplified traffic informations were superseded the very next day which is not allowed by law. They are only allowed to be dismissed or amended. This rendered the case dead and all that could issue was a termination and sealing order. This issue is described in detail here. So the case started with three alleged charges and progressed to a presentment of seven charges (which only two, that were violations, of the three original charges may have been listed). Then from that Presentment arose the indictment of ten counts, *i.e. charges,* of which five of the 'charges' on the Presentment were indicted and five other appeared out of no where. Ploetz knew all of this and illegally and unlawfully ignored it. In the image above you will see a copy of the indictment along with the Notice of Presentation that Rieman and Ensell used against Mr. Kochan (outlined in green) and an example of how Rieman writes up Notice of Presentations for everyone else that clearly shows she cites the statutes allegedly violated, outlined in blue, but not for Mr. Kochan.

Why did Reiman and Ploetz do this? Simple, they did not have a case so they decided to pile on the charges.

On top of that one of the counts/charges contained on the indictment (VTL 375(30)) has been ruled unconstitutional, see People v Lew 115 Misc 2d 421, 454 N.Y.S.2d 225; People v O'Hare, 73 A.D.3d 812, 900 N.Y.S.2d 400, and two other charges were multiplicitous/ duplicitous charges (VTL 1144-A and VTL 1120(a)), meaning that Mr. Kochan was charged twice for the same crime, which is a violation of the Double Jeopardy clause of the US and New York State Constitution. **This is establishes beyond any reasonable doubt that Rieman and Ensell committed fraud upon the Grand Jury in their presentation knowing full well you cannot charge a person with the same crime twice.** This is discussed in detail in the "Decision & Order of October 26th, 2016" of Ploetz towards the bottom of this article. Again Ploetz was aware of all of this. He is unfit as a judge**.**

Decision & Order Dated March 22nd, 2017

Ploetz's order is in **blue wording. His order is broken down into sections so it can be analyzed in a easier to understand format, in black words. A video is found at the start of this article that shows what actually occurred.**

Video for a factual based reference as to what happened that evening.

Copy of "Decision & Order" of 'Judge' Ronald Ploetz March 22nd, 2017

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Procedural History

Over several months, multiple motions were filed and return dates held. Four issues now remain and are ripe for review: 1) probable cause for the stop of Defendant's vehicle, 2) suppression of Defendants statements, 3) CPL 30.30 timeliness of action, and 4) dismissal of the obstruction of governmental administration charge. ***(page 1, paragraph 1)***

A hearing was held on November 16, 2016, and Deputy Cori Kowalski of the Ellicottville Police Department testified. Videos from a police body camera and Defendant's dashboard camera were admitted into evidence. ***(page 1, paragraph 2)***

Finding of Fact (to review the analysis of this section click here)

The court credits the testimony of Officer Kowalski and finds: ***(page 1, paragraph 3)***

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During the pre-dawn hours of February 27, 2016, Officer Kowalski saw Defendant operate his motor vehicle without headlights and failed to signal a turn; Defendant did not yield to police officers who had their emergency lights engaged; during the police pursuit that lasted several miles, Defendant repeatedly crossed the double yellow line parrying the movements of the police cruiser in front of him; Defendant had to be boxed in by two cruisers before he would stop; once stopped, Defendant refused to open his window, talk to Officer Kowalski , or open his car door; when Deputy Kowalski was reasonability concerned for his personal safety; Defendant's behavior created reasonable safety concerns that justified keeping him in handcuffs while awaiting an ambulance; Defendant was not under arrest or in custody when he made on the scene statements; no promises, threats, or undue influence were exerted to get Defendant to talk to officers; the questions asked of Defendant were investigatory or concerned Defendant's physical condition and needs; Defendant made multiple spontaneous and unsolicited statements; and Defendant's statements were made knowingly and voluntarily. ***(page 2, paragraph 3)***

Defendant was arraigned on February 27, 2016 and the case was adjourned for him to appear with counsel. New tickets were filed on February 28, 2016 to correct the location and spelling of Defendants name. Defendant appeared in town court on March 10, 2016 without counsel and requested an adjournment to appear with counsel (because his counsel could not make it due to a medical emergency) That same day the People stated readiness on the record. On April 14 2016, Defendant appeared with counsel in town court and was arraigned. Defendant was indicted on May 5, 2015 and the People filed a written statement of readiness on May 16, 2016. ***(page 2, paragraph 4)***

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Analysis

1. *Probable Cause for Stopping Defendant's Car*

A traffic stop is permissible when a police officer has probable cause to believe a driver committed a traffic committed a traffic violation (People v Guthrie 25 NY3d 130, 133 [2015]). Here, the court credits Deputy Kowalski's testimony that he had reasonable cause to believe he witnessed Defendant: fail to signal, operate in the dark without headlights, drive erratically, and failed to yield to emergency vehicles. The instant stop, therefore was based on probable cause to believe Defendant committed traffic violations. (page 3 paragraph 5)

Defendant's challenge to stop is denied. (page 3, paragraph 5)

2. *Defendants statements.*

Statements a Defendant make can be used against him before he is arrested. Further statements made after the arrest can only be used in the suspect has been read his Miranda Rights and waives them. Many times when statements are made before the arrest and after they have been waived and reduced to writing in a CPL § 710.30 form then the fight begins and the fight centers around when the person was arrested. Defense Attorneys will argue a specific arrest time while District Attorneys will argue another. The common law, i.e. case law is what determines when the arrest took place. In this matter Ploetz's shows his true colors by defying all case law.

When a vehicle is stopped for a traffic infraction the police may approach it with guns drawn if the reasonably fear for their safety (People v Woods 64 NY2d 736 [1984]) (page 3, paragraph 6)

People v Woods is based upon one of the police officers warned the other officer that defendant had reached for a loaded gun when previously stopped for a traffic infraction, which in this matter did not occur in this matter and the record is completely absent as to any reference thereto. Further Woods cites People v. Chestnut, 51 N.Y.2d 14, 21, 431 N.Y.S.2d 485, 409 N.E.2d 958 as its authority for the police drawing guns. In Chestnut the police drew their guns because they were informed that one of individuals they had under observation was armed with a silver gun and dangerous due to a robbery that had just occurred in the area the suspect matching the description of the individual under observation of the police. In this matter there is no indication on the record that Defendant was armed, had a crime been committed. Defendant was only charged with two violations and one traffic misdemeanor utilizing simplified traffic informations. This court case cite is misapplied by Ploetz.

The Appellant Court in Rochester has already unanimously ruled that Ploetz does not know what a arrest or question is. It is obvious that he does not know what an arrest is either. Further proof that he is either not competent to be a judge or corrupt, you decided. You will soon see that he does not understand the what a superseded simplified traffic informations are and why the can't be superseded.

For the same reasons, the police may also perform a pat down of the occupant (People v Larkins 116 AD2d 194, 196 [1986]) (page 3, paragraph 6)

Here, Defendant [Mr. Kochan] refused to pull over and engaged a police pursuit for several miles. During this pursuit, Defendant repeatedly cross the double lines and parried the movements of the cruiser in front of him; Defendant had to be boxed in by two cruisers before he would stop; and when the officer approached the vehicle to question Defendant, Defendant refused to open his

window, talk to an officer, or open his car door. These circumstances reasonably caused the officer to fear for his safety. (page 3, paragraph 7)

Here Poletz overlooks the obvious, Defendant's dash cam video 20160227_034102A clearly shows Defendant had a gun drawn on him within two seconds. The video clearly shows as Officer Kowalski exited his EPD patrol car he immediately drew his gun on Defendant. Defendant has stated he immediately raised his hands in fear of being shot dead by Kowalski in his 30.30 Motion and his Omnibus Motion, paragraph 5 and did not have the time to turn his stereo off. Videos 20160227_034102A and 20160227_034201A show that Defendant had about two seconds and between 25 to 30 seconds before his window was either shot out or knocked out by Officer Kowalski or Hunt. Further the audio of police cam video 20160227024735_10100515_100_PICT0019 START at 2:50:57 substantiates Defendant's claim that he could not turn off his stereo to hear what Officer Kowalski was allegedly yelling at him. You can clearly hear music playing as Officer Graham walks past Defendants Ford Edge. Ploetz admits the Defendant was defending himself against and in fear of law enforcement by his use of the word 'parried', or derivatives thereof while traveling in his car. The word 'Parried' is the past tense form of parry, which means to ward off (a weapon or attack). To ward off is defined as to turn aside or repel; avert, i.e, one who is being attacked attempts to turn aside the attack. "Where, as here, a word is not defined by statute, dictionary definitions serve as "useful guideposts" in determining the word's meaning" People v. Aleynikov 148 A.D.3d 77 48 N.Y.S.3d 9, see also PL § 5.00. This admission by the court also evidences that fact that the court was aware of Defendants state of fear he had for law enforcement due to prior incidents which included, but not limited to being assaulted and knocked out by a Cattaraugus County sheriff's deputy who had been sued in federal court for such conduct as well as perjury and was given a raise for it as well as being charge with the most heinous crime of remaining silent. It must be further noted that Defendant never would have had to travel to Buffalo in the first place that evening if law enforcement had obey the law in the prior event. Further as admitted by Officer Kowalski in the police video that he believed "you didn't pull over because you didn't feel safe" in police video 20160227024735_10100515_100_PICT0020; 2:57:49 TO 2:57:03 which Defendant agreed with. This court case cite is misapplied by Ploetz.

People v Feola 2005 NY Slip Op 51264(U) citing People v O'Doherty, 70 NY2d 479, 484; "The defendant may challenge the statement upon three grounds: that it was (1) elicited by threat of physical force or other improper conduct or undue pressure; (2) induced by a promise or statement made to defendant which created a substantial risk of false self-incrimination; or (3) obtained in violation of defendant's constitutional rights (see, CPL 60.45 [2])."

So Ploetz claims that Mr. Kochan was not subject to "threat of physical force or other improper conduct or undue pressure" during this event?

Because the officer reasonably feared for his safety, the officer had a legal basis to draw his gun, remove Defendant from the car, and handcuff him (People v Allen 73 NY2nd at 380, People v Fagan, 98 A.D.3d 1270 (2012)). Further it was reasonable and warranted to keep Defendant in handcuffs while they awaited an ambulance because Defendant had attempted to evade police (People v Arthur 209 AD2d 175, 176 [1st Dept 1994]) and his aggressive on-scene behavior created safety concerns (People v Allen 73 NY2d 378... (page 3, paragraph 8)

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...380 [1989]). (page 4, paragraph 8)

In People v Allen three plain-clothes police officers, while on anti-crime patrol in The Bronx, received a radio report of an armed robbery in progress at a nearby address when they observed and then gave chase to the suspect and it WAS ON FOOT. Again Defendant was injured and surround by cops the whole

time.

In People v Fagan police officers lawfully stopped the vehicle in which defendant was a passenger because it had excessively tinted windows, and lawfully directed defendant to exit the vehicle. Based on defendant's movements both inside and outside the vehicle, the officers suspected that defendant was attempting to conceal something (unlike the Defendant in this matter where he had his hands in the air in about two seconds) and they reasonably suspected that defendant was armed and posed a threat to their safety because his actions were directed to the area of his waistband, which was concealed from their view. In addition, defendant continued to move his hands toward his waistband despite the officers' repeated requests that he stop doing so. In this matter Defendant did not hear the commands of law enforcement on scene do to his stereo being on and not allowed to have the time to turn it off and was not given the time to properly react to the totality of the circumstances occurring at that moment in time.

In People v Authur two female Transit Police officers were on plainclothes duty when they observed a man wearing a Federal Express uniform chasing a male defendant and capturing him near the token booth. The man dressed in the Federal Express uniform uniformed reported that defendant had just robbed somebody on the street, and that he had taken over the chase on behalf of a female victim. The female officers cuffed the suspect because the suspect gave an indication he was "ready to run". In this matter Defendant could not have been had been "ready to run" in any manner, he was violently remove from his car, thrown to the ground and seriously injured in the process requiring hospital attention thereby negating his ability to flee. In fact the handcuffs made have led to more injury to defendant's arms and shoulders.

Further at no time was Defendant aggressive. Defendant had no time to be aggressive with guns pointed at him, having his window shot or smashed out then violently pulled from his car and thrown to the ground and injured then handcuffed, all this occurring within a one minute time frame, further nowhere on the police video can the Defendant be shown where he is being aggressive on the scene.

Again at this point Defendant had committed no crime and the purpose of the stop was alleged simple traffic violations and again these court case cites are misapplied by Ploetz.

Handcuffing does not automatically elevate a detention into an arrest or make the detention custodial (People v Dluhy 288 ad2d 693, 694 [3rd dept 2001] 537 US 978). Indeed, the court finds, here, Defendants statements were pre-arrest (People v Wiggins 126 AD3d 1369, 1370 [4th dept 2015]); People v McCoy 46 AD3d 1348,1349 [4th Dept 2007] and noncustodial (Pennsylvania v Bruder 488 US 9, 10 [1988]), People v Wieshaupt 118 AD3d 1100, 1102 [3d Dept 2014] (page 4, paragraph 9)

In People v Dluhy a Defendant appeared to be unlawfully in the basement of another persons home which the owner gave permission to the police search the area. In light of seriousness of offense being investigated and circumstances under which he was located, defendant was ordered to ground and handcuffed to determine if he was in possession of any weapons; **handcuffs were removed once officers were assured of their safety**, and defendant then voluntarily accompanied officers to discuss crime being investigated; after admitting to some knowledge of robbery, officers gave him Miranda warnings and defendant ultimately confessed and led officers to place where he secreted BB gun--application of handcuffs is not dispositive of whether detention of suspect on reasonable suspicion has been elevated into full-blown arrest; officers' use of handcuffs was not gratuitous or unwarranted; thus, defendant's admissions made thereafter were properly presented to jury. **The important point in the Dluhy case is that Defendant was handcuffed immediately then the handcuffs were removed and he was then questioned where he admitted to nefarious conduct which he was then arrested.** In this matter Defendant was seized as soon as he stopped, guns then pointed at him immediately, his window shot out or broke out, violently pulled from his car and thrown to the ground and knocked out and injured in the process, woke up in what he believed were handcuffs and lifted to his feet in an injurious

manner. At all times Defendant was in handcuffs on scene, in the ambulance, at the hospital, transportation to court, court and to jail.

In People v Wiggins defendant was not subjected to de facto arrest without probable cause when he was briefly detained for the safety of the officers trying to frisk him. The key here being “probable cause.” In this matter Kowalski alleged that the probable cause was the violations and the claims that Defendant had a 20160227024735_10100515_100_PICT0019 2:57:25 TO 2:57:31

In People v McCoy is also not applicable. In McCoy the purpose of the detention was for identification purposes of a crime that had occurred in the area. In this matter it was alleged simple traffic violations in the presence of the police.

C.P.L. Section 140.10(2) which permits a police officer to arrest a person for a "petty offense" committed in the officer's presence in the geographical area of the officer's employment. A "petty offense" is defined in C.P.L. 1.20 (39) as "a violation or traffic offense"; Penal Law Section 205.00(2) defines custody as a *"... restraint by a public servant pursuant to an authorized arrest or an order of a court".*

People v. Sheets, 24 Misc.3d 1223(A) (2009) "In this case the defendant was ordered out of his vehicle by the police officer. The defendant further testified to the officer grabbing his right arm and being rather forcibly directed to an area behind the defendant’s vehicle. It would be difficult to believe that a reasonable person would under such circumstance would think that he was free to leave the scene. In People v. Clark (3rd Dept.1997) 241 A.D.2d 710, 660 N.Y.S.2d 200. It has been held that “An arrest occurs if the intrusion is of such magnitude that an individual’s liberty of movement is significantly interrupted by police restraint Terry v. Ohio, 392 U.S. 1)."

Further Kowalski alleged he “feared” for his safety. (16NOV16 Transcript, Pg 21, lines 24,25

A: "The reason being is that considering the circumstances, I was in fear that he potentially could have had a weapon, hurt myself or my partner. So at which point he was detained." Pg 56, lines 11 though 15

Q: Mincing terms such as arrest, detained. Bottom line is my client was in custody and not free to leave while this conversation, while these questions were being made, correct?;

A: He was not free to leave, sir;

Q: All right.

This is another prerequisite for arrest “necessarily is dispositive of whether defendant’s detention was elevated into an arrest. Indeed, “police officers [who] find themselves in a rapidly developing and dangerous situation presenting an imminent threat to their well-being ... must be permitted to take reasonable measures to assure their safety and they should not be expected ‘to await the glint of steel’ before doing so” People v. Mabeus, 68 A.D.3d 1557 (2009).

The police in this matter had guns drawn on him in two seconds, not enough time for anyone to determine if a situation was being 'rapidly developing and dangerous situation'. **However you will notice how Kowalski laid the bogus justification for shooting M.r Kochan dead. This is how he was apparently trained.**

In Pennsylvania v Bruder the Defendant left his car and approached the police, and when asked for his registration card, returned to his car to obtain it. Smelling alcohol and observing Defendant’s stumbling movements, the police administered field sobriety tests which ultimately results in the Defendant being

arrested. Defendant appealed and won which led to an appeal to the supreme court, which ruled that Defendant was not in custody when the fields tests were given. In this matter Defendant was in handcuffs the whole time and was not free to leave as testified by Officer Kowalski (16NOV16 transcript Pg 56, lines 11 though 15). Further Bruder cites Berkemer v. McCarty 468 U.S., at 440, supra, which involved facts strikingly similar to those in Bruder case, the Court concluded that the ***"noncoercive aspect of ordinary traffic stops prompts us to hold that persons temporarily detained pursuant to such stops are not 'in custody'* for the purposes of Miranda."** Id., 468 U.S., at 440, 104 S.Ct., at 3150. "In Commonwealth v. Meyer, the Pennsylvania Supreme Court ruled that the driver of a car involved in an accident who was suspected of driving under the influence of alcohol and who was told by police to wait at the scene until additional police arrived was in custody for purposes of ***Miranda. "Custodial interrogation means "questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way"*** The keyword Ploetz stated being "noncoercive" Mr. Kochan was stopped, guns drawn on him within 2 seconds, his window was then smashed out or shot out within 30 seconds then he was violently pulled from his car within another 30 seconds and thrown to the ground and knocked out, stomped, injured in the whole process, handcuffed and lifted to his feet in an injurious manner, clearly, at least to any reasonable person would see that at a minimum the conduct by law enforcement on the scene was coercive and it is clear in this matter there was a question voluntariness (People v Greer, 42 NY2d 170, 178 [1977]).

People v Wieshaupt defendant was never handcuffed when he made the statements, did not have guns pointed at him, did not have his car window violently smashed or shot out, was not violently removed from his car and violently thrown to the ground, knocked out, stomped upon, handcuffed then pulled to his feet in an injurious manner and remained in handcuffs during the whole duration.

Again at this point Defendant had committed no crime and the purpose of the stop was alleged simple traffic violations and again these court case cites are misapplied by Ploetz.

A contrary finding is not required because Officer Kowalski believed Defendant was not free to leave (People v Rodney P. (Anonymous), 21 N.Y.2d 1 (1967)). Further, the stop was not rendered custodial by the length of Defendants roadside detention because that wait depended on the arrival of an ambulance and was outside police control (People v Harris 186 AD2d 148; People v Rose 72 AD3d 1341, 1344-1345 [3d Dept 2010], 16 NY3d 745 [2011]) (page 4, paragraph 10)

Here the court alleges that Officer Kowalski is incompetent and not properly trained. Hence the case should be thrown out. In People v Rodney P. the case cites Miranda ***"[C]ustody occurs if a suspect is led to believe, as a reasonable person, that he is being deprived or restricted of his freedom of action or movement under pressure of official authority ... [T]he custody requirement of Miranda does not depend on the subjective intent of the law enforcement officer-interrogator but upon whether the subject is physically deprived of his freedom of action in any significant way or is placed in a situation in which he reasonably believes that his freedom of action or movement is [significantly] restricted by such interrogation."*** Again, Mr. Kochan was stopped, guns drawn on him within 2 seconds, his window was then smashed out or shot out within 30 seconds then he was violently pulled from his car within another 30 seconds and thrown to the ground and knocked out, stomped, injured in the whole process, handcuffed and lifted to his feet in an injurious manner, clearly, at least to any reasonable person would see that at a minimum the conduct by law enforcement on the scene was coercive.

Further the length of defendants roadside detention does not apply because if Defendant was free to leave then why was he still in handcuffs and surrounded by cops the whole time and in hand cuffs from at the scene, in the ambulance and at the hospital. It appears that the court is implying that Defendant was free

to leave yet Kowalski stated clearly Defendant was not. Ploetz was not there, Kowalski was and Kowalski was running the show so to speak. If Kowalski stated Defendant was not free to leave then he was not free to leave and was under arrest. If that was the case then there would have been no reason for the Defendant to be handcuffed to gurney and a police officer escorted him to the hospital and handcuffed to the bed at the hospital.

When does an arrest occur? A test for when a "seizure", i.e. arrest, has occurred, and the Court has recently modified its approach. The issue is of some importance, since it is at this point that Fourth Amendment protections take hold. The *Terry* Court recognized in dictum that "not all personal intercourse between policemen and citizens involves 'seizures' of persons," and suggested that ***"[o]nly when the officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen may we conclude that a 'seizure' has occurred."*** [Terry v. Ohio 392 U.S. 1 at 19, n.16.] Years later Justice Stewart proposed a similar standard, that a person has been seized ***"only if, in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave."***[United States v. Mendenhall, 446 U.S. 544, 554 (1980).] This reasonable perception standard was subsequently endorsed by a majority of Justices [Florida v. Royer, 460 U.S. 491 (1983)], and was applied in several cases in which admissibility of evidence turned on whether a seizure of the person not justified by probable cause or reasonable suspicion had occurred prior to the uncovering of the evidence. In Dunaway v. New York 442 U.S. 200 (1979); **Petitioner was taken into custody; although he was not told he was under arrest, he would have been physically restrained if he had attempted to leave.**

So what are Ellicottville Police Officer Kowalski's views on whether or not Mr. Kochan was placed under arrest by him that morning? Well they contradict each other. In one instance he claims Mr. Kochan was only detained (after he and deputy Hunt assaulted him) yet in another instance he admits that Mr. Kochan was not free to leave, the very definition of arrest. Contradictions while under oath are the very definition of perjury;

People v Lillis 3 A.D.2d 44 (N.Y. App. Div. 1956); “The authority for such an indictment is said to be section 1627-a of the Penal Law, which reads as follows: "An indictment or information for perjury in the second degree may allege the making of contradictory testimony or statements under oath on occasions in which an oath is required by law, without specification of which thereof is true; and the **perjury may be established by proof of the wilful giving or making of such contradictory testimony or statements,** without proof as to which thereof is true."" ***"perjury in the second degree may allege the making of contradictory testimony or statements"***

In People v Harris appears to involve a Defendant being elusive in his answers as the cause for delay. The law is very clear, defendants don’t have to answer any questions asked by law enforcement in any matter and can remain silent, however Defendant being in a injured state of mind and fearful of still being injured more, including death, could have providing elusive answers to his condition. This cite does not in any manner deal with an outside force as a cause for delay.

In People v Rose no guns were drawn defendant and defendant was not questioned which is the exact opposite of what occurred in this matter, therefore this cite is also misapplied.

While awaiting the ambulance, the police asked a few questions of Defendant, and those questions 1) were of an investigatory nature (e.g. “why didn’t you stop”) (People v Coffey 107 AD 3d 1047, 1050 [4th Dept 2013]; People v William 81 AD3d 993 [2d Dept 2011] or 2) concerned... (page 4, paragraph 11)

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...Defendant's physical conditions and needs (People v Craft, 57 AD3d 1388, 1389 [4th Dept 2008], lv denied 12NY3d 757 [2009]). (page 5, paragraph 11)

So what if the questions were "investigatory nature" it's the circumstances and setting the questions are asked in, before, during and after that determines whether or not the questions were done in a custodial setting or a investigative setting. Further the questions asked in People v Coffey were for safety purposes. In People v William a cab was stopped based on the individuals in the cab matched the description of robbery suspects, again a violent crime had been committed in the area, they had a description of the suspect and the individual in the vehicle the suspect's description. In this matter these was no violent crime or suspect. The Bill of Particulars says arrest, the impound sheet says arrest, he was in handcuffs, injured and surrounded by cops. He was arrested and was not free to leave.

People v Williams is an duplicate of People v Coffey *"The police had reasonable suspicion to support the stop of a cab in which defendant and his codefendant were passengers; when the police first saw the cab, they observed that the passengers matched some general aspects of the radioed description of two men who had just committed a robbery at the same location. "*

Ploetz's statement that the Police were "**concerned Defendant's physical conditions and needs**" shows just how corrupt and out of touch with the facts he is. If the Police were actually they wouldn't have blocked him in, pulled their guns on him and shot or smashed out his window, violently pulled him from his car and then violently threw him on the ground, knocked him out, handcuffed him then pulled him to his feet in an injurious manner.

Again at this point Defendant had committed no crime and the purpose of the stop was alleged simple traffic violations and again these court case cites are misapplied by Ploetz.

Many of the Defendant's statements were spontaneous and not the result of express questioning or its functional equivalent (People v Burnett 41 AD3d 1201, 1202 [4th Dept 2007]), People v Acosta 132 AD 3d 466 [1st Dept 2015] lv denied 27 NY3d 992 [2016]. (page 5, paragraph 11)

Ploetz uses People v Burnett which just cite the spontaneous of answers. It's the circumstances surrounding the answers themselves is what is required to be taken into consideration to determine whether or not they were "spontaneous". What is more interesting is the fact that the Burnett case does not detail the facts of what led to the determination of why they were spontaneous, i.e. not providing the actions of the police or the defendant that led to the outcome. It's a bogus cite.

In People v Acosta the case dealt with the Defendant asking questions and the Police answering them While the Defendant did ask if he was going to be accused of shooting down air force one and that the cops who just tired to kill him were criminals the logic and reasoning of why Ploetz would even want to consider that relevant and providing some type of admission as to the crimes charged defies logic and reasoning. However Ploetz maybe attempting to play the mental card again. The same one they utilized on Defendant the last time, where he was forced to see 15+ mental health experts and only two of them, the ones hired by the County found him incapable of representing himself. All the rest did not find any issue with him representing himself. On of the doctors even admonished the judge for sending him to get an evaluation. Corrupt Judges like Ploetz and District Attorney's like Rieman use the CPL 730.30 tactic to silence individuals who are standing up for their rights. Bill Bastuk, another victim of a corrupt District Attorney in New York State lost over $160,000.00, he and his wife's life savings over bogus charges in which he was forced into a CPL 730.30 process. He is now spearheading a bill that will create a committee to review prosecutorial miscount and hold corrupt DA's like Rieman accountable for their

crimes against humanity. Also, when you are injured by a "police officer" the court has a duty to call the People to account for the injuries. This would include being handcuffed to a metal chair and being assaulted by a sheriff's deputy and knocked out, and said deputy has a history of such actions and has been sued in federal court for such conduct. It would also include when your window is shot or smashed out and are violently pulled from your car, thrown to the ground, knocked out and stomped upon and blood starts flowing from your ear drum indicating a possible concussion or skull fracture, all for a minor traffic violation. In People v Mummiai 258 N.Y. 394, 397 the court ruled (Bram v. United States, 168 U.S. 532) *"...our law does not require that a confession to be admissible shall be a spontaneous utterance made by a defendant to relieve his conscience. Only where the confession is made under the influence of fear produced by threats is it inadmissible. Then it loses all testimonial value, for so the statute has ordained."* In People v Valletutti 297 NY 226, *"No effort was made by the prosecution to show (aside from the denials by the policeman of any violence) how or where these injuries were in fact inflicted, nor did the prosecution call as a witness the physician who made the entry in the jail records". "This court said in People v. Barbato, 254 N.Y. 170, 176, 172 N.E. 458, 460: 'The district attorney on this evidence was called on to account for the defendant's condition.' A similar duty was on the People in this case, and no sufficient accounting is in the present record at page 461: '…on the weight of evidence the physical facts corroborate defendant's statement that injuries were inflicted by the police officers to procure a confession.'* Neither Ploetz or Riemain made any attempt to inquire into Defendants injuries and in fact helped cover them up.

All of Defendant's statements were made voluntary and knowingly. (page 5, paragraph 11)

This defies belief, think about, the Defendant never admitted to this (because it did not happen) but by Poetz claiming Defendant made the statements **voluntary and knowingly, he claims to be able to read a person's mind and at a specific point in time on top of it. OK, this is similar to what Rieman did when she claimed she could see into the future.**

3. CPL 30.30

In New York State once a person is charged the District Attorney has only so much time to declare readiness to go to trial however there are excludable times that the District Attorney cannot be charged. All of statues on this is found in CPL 30.30. For misdemeanors its 90 days.

The CPL 30.30 period in this case in ninety days (CPL 30.30 [1][b]). Charges were filed and the Defendant was arraigned on February 27, 2016, and thus CPL 30.30 time began running the next day (People v Stiles 70 NY2d 765 [1987]). Excludable time under CPL 30.30 (4) (f) however immediately applied because the case was adjourned on February 27th for Defendant to appear with counsel. (page 5, paragraph 12)

The *"Immediately applied because the case was adjourned on February 27th for Defendant to Appear with counsel."* is the important part of Ploetz's statement. The Defendant will leave this for trial to preserve it for appeal in his case in chief, however People v Stiles deals with one issue, when the 30.30 clock starts, which is one day after the arrest and appearance in court occurs. Which defendant has no disagreement with, however from a moral point of view, one of the most, if not the most traumatic times in a person life occurs when they are arrested. Therefore it should start on the same day a person is deprived of their rights to life, liberty and pursuit of happiness.

The filing of the tickets on February 28, 2106 did not negate this excludable delay (People v Cortes 80 NY2d 201, 213 [1992]); CPL 30.30 [4] [f]). (page 5, paragraph 12)

Tickets, i.e. normally called appearance tickets are not filed, the charges are. Tickets are what a 'law'

enforcement officer hands to the suspect/defendant. In this case because the 'law' enforcement officer utilized uniformed traffic tickets (UTT's). what was filed with the court was the charge itself, which in this matter were simplified traffic informations (STI's). STI's have a specific design and need to be approved by the Commissioner of Motor Vehicles. If they do not fit the design and/or the information required on them is not written on them they are considered facially insufficient. Ploetz cites People v Cortes is a real eye opener. It shows you just how incompente he is. Here is a point of law found in this case; *"People, having previously announced their readiness to try first indictments, were nevertheless* ***required to reannounce their readiness for trial upon filing of successive indictment*** *after first indictment was dismissed;* ***thus, delays between filing of second indictments and defendants' separate arraignments on those indictments were chargeable to People."***

You will notice how Ploetz uses the Cortes case to imply that the original 'tickets', charges were dismissed. They were never dismissed, they were in fact superseded which by law you cannot supersede simplified traffic informations. On February 28th, 2016, "Police Officer" Cori Kowalski, one of the stompers superseded the original simplified traffic informations with new ones; WST25D3Q97, WST25D3QCB, WST25D3N3L. Simplified informations are not allowed to be superseded pursuant to CPL § 100.50, therefore the superseding accusatory instruments were also null and void [People v. Greco, 12 Misc.3d 83 (2006), 819 N.Y.S.2d 630 "*The Criminal Procedure Law does not provide for the filing of a superseding simplified traffic information."* ***"The next day, the complaining officer executed an accusatory instrument denominated a "SUPERSEDING SIMPLIFIED TRAFFIC INFORMATION" and "SUPPORTING DEPOSITION TO SIMPLIFIED TRAFFIC INFORMATION(S). Judgment of conviction reversed on the law and accusatory instrument dismissed.",*** see also *People v Finch, 19 Misc 3d 840*]. Kowalski would also write a letter to the court stating as such. If they would have obeyed the law, *i.e. followed due process,* which never occurs in Cattaraugus County they could have moved forward [People v Flood 25 Misc.3d 843, 844].

"[a] valid and sufficient accusatory instrument is a nonwaivable jurisdictional prerequisite to a criminal prosecution" [People v. Williams 32 Misc.3d 135(A) 936 N.Y.S.2d 61]. [People v. Green 192 Misc.2d 296 745 N.Y.S.2d 656, see also People v. Cullen 99 Misc.2d 646 (1979) *"People cannot use the device of supersedure to continue a prosecution"*]. Further the supporting depositions were blank again. **The court clerk even wrote on the top simplified traffic information the word "VOID" on a post it and placed it on the top of the stapled stack of simplified traffic informations.**

Kowalski illegally replaced them was because he misspelled the victims last name. When it comes to this type of mistake STI's are required to be amended. [People v. Kurtz 175 Misc.2d 980, 670 N.Y.S.2d 1008 "Correct errors to time, place and names of persons", People v. Johnson, 104 N.Y. 213, 10 N.E. 690 [1887] "Amendment of names is permitted to situations where a name is misspelled"], which requires the court to approve it before they do it. **The District Attorney's office would attempt to claim that because a "supporting deposition" was filed the proper conversion was made. That is also null and void.** The document is actually a Bill of Particulars and does not support anything. It contains no facts as related to what was observed when it came to the two violations. Further it also was created on, or after the 28th of February, 2016 and not served until March 10th, 2016, over the objections of the victim we might add. **But the best part is it lists the superseding simplified information numbers WST25D3Q97, WST25D3QCB, WST25D3N3L appear on the Bill of Particulars, not the original superseded simplified information numbers.** WORTHLESS – **Let's see if this is "overlooked" by the court and that they will attempt to claim it was from the originals, or will other fraudulent documents just appear out of nowhere like they have done in the past in an attempt to cover up their criminal conduct?**

Further the original alleged UTT charges WST25CXCWC, WST25CXDSW, WST25CXDQG and their replacements WST25D3Q97, WST25D3QCB, WST25D3N3L as well as their supporting depositions do not contain any facts that would support the alleged charges, thereby rendering them facially insufficient, People v Davis 2015 NY Slip Op 50434; People v. Jones, 9 NY3d 259, 261 (2007); People v Alejandro, 70 NY2d 133, 134-135; People v. Dumas, 68 NY2d 729, 506 N.Y.S.2d 319, 497 N.E.2d 686 [1986]; County of Riverside v. McLaughlin, 500 U.S. 44, 111 S.Ct. 1661, 114 L.Ed.2d 49 (1991) Farley, 129 Misc 2d at 926. On top of that the Supporting Deposition and Bill of Particulars, which was served over the victims objections on March 10, 2016 and was allegedly created on February 28, 2016 with no proof of service upon the victim, contained the superseding simplified traffic informations WST25D3Q97, WST25D3QCB, WST25D3N3L making the Bill of Particulars in the lower Ellicottville court case null and void. This is all described in the victims Omnibus Motion which again Ploetz was well aware of.

So not only was the time between the two 'arraignments' chargeable the original charges as well as the new superseding charges were made a nullity because the originals were superseded. Further it was Rieman that decided to take it to the Grand Jury (which appears to be a first in the history of the County to take a traffic misdemeanor, which was null and void) and two moving violations to a Grand Jury. Because she took it to the Grand Jury she had to use CPL § 170.20, which specifically spells out the mandate that a mosdomeor charge is required to allow a District Attorney to present it to a Grand Jury. If the Grand Jury hands down an indictment it is tried at the county or supreme court level, if it does not, it is sent back to the court it originally came from. CPL 170.20 (2) is very clear;

CPL 170.20 (2) At any time before entry of a plea of guilty to or commencement of a trial of an accusatory instrument specified in subdivision one, the ***district attorney may apply for an adjournment of the proceedings in the local criminal court upon the ground that he intends to present the misdemeanor charge in question*** *to a grand jury with a view to prosecuting it by indictment in a superior court.*

And People v. Correa 70 A.D.3d 532, 897 N.Y.S.2d 14 spells it out; *"while CPL 10.30 (1) (b) states that the Criminal Court's trial jurisdiction over misdemeanors is "subject to divestiture"… by a [superior] Court, CPL 170.20 and 170.25 are necessary to implement that divestiture"*.

It gets even better, Rieman and Ensell decided not to present the null and void misdomenor to the Grand Jury, they abandoned it. They instead made up a charge Defendant was never charged with, an "Obstruction of Government Administration". It never existed. In order to be charged you have to be served with the accusatory instrument/summons. That never happened [People v. Tyler 1 N.Y.3d 493 *"defendant was 'charged' when he was ticketed"*]. Further the Notice to Appear before the Grand Jury only the words "Obstruction of Government Administration" are listed on the notice. It does not specially cite the actual statute violated or the degree of the "obstruction" which there are three each one requiring specific conduct to be found in violation of, they are;

1. Obstructing governmental administration (in the first degree. E Felony)
2. Obstructing governmental administration (in the second degree. A misdemeanor)
3. Obstructing governmental administration (by means of a self-defense spray device. D Felony)

There were other allegations who's statutes bared the same wording, the most egregious one being "failure to signal" which could have been one of over ten charges he would have had to prepare to defend against.

See how the District Attorney's Office purposely confused the victim if he wished to appear before a Grand Jury? The other issue is the modern Grand Jury is nothing but a rubber stamp for the District Attorney's Office. Members are not properly informed on what their actual powers are. They are constantly being fed you have to do what you are told or "follow the law". Rieman only did this to the Defendant, in all other cases she cited the actual statues violated. This is proof of a vindictive and biased nature of Rieman and Ensell.

The grand Jury came back with ten count indictment, nine were traffic violations and one was an A misdemeanor "Obstructing governmental administration in the second degree." This appears to be another historical first in Cattaraugus County. However even if the original charges were valid and they were properly taken to the county court the video clearly shows that the victim was not under arrest until he stopped when the guns were drawn on him. by law you cannot be charged with Obstruction in the second until you have been arrested and in this matter the 'police' who stopped the victim did not give him the time to react to what was occurring. The video clearly shows that.

Ploetz's was aware of all of this. Judges are mandated to be fair and unbiased, which Ploetz's order clearly shows he is just the opposite and it is very clear he does not like people exercising their 1st amendment rights.

The 30.30 clock was stopped when the People stated readiness on the record in town court on March 10, 2016 (People v Carter, 91 NY2d 795, 796 [1998]), regardless of which tickets were operative (People v Bowers 4 AD3d 558, 559 [3d Dept 2004], lv denied 2 NY3d 796 [2004]). After this statement of readiness, any time is considered post readiness, which impacts CPL 30.30 analysis (People v Cortes 80 NY2d 201, 213 [1992]). (page 5, paragraph 13)

Well wait a minute, Ploetz stated that the clock was not running in the previous paragraph as of February 28th, 2016. Then he states it stops running again on March 10th, 2016. Notice the contradiction? Ploetz on page 8, paragraph 19 states a contradiction nullifies an argument, as such Ploetz, with his own words nullified and voided his own statement.

Further Ploetz cites Cortes again. Cortez specifically states;

"delays between filing of second indictments and defendants' separate arraignments on those indictments were chargeable to People."

The statement of readiness on March 10th, 2016, which was made over the Defendant's objections did not stop the clock because the People on April 18th decided to take it to the Grand Jury. If they were ready for trial why did they need to take it to the Grand Jury?

Although superfluous, it is notable that the time would be excluded: 1) from February 28, 2016 to April 14, 2016 for Defendant to appear with counsel at arraignment (CPL 30.30 [4] [f]), 2) from March 10, 2016 to April 14, 2016 for Defendant's request for an (page 5, paragraph 14)

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...adjournment (CPL 30.30 [4][b], and 3) from April 14, 2016 to May 12, 2016 for the defense motions (CPL 30.30 [4][a]). (page 6, paragraph 14)

The People concede they are chargeable for eleven days between the May 5, 2016 filing of the indictment and the May 16, 2016 filing of the statement of readiness. This leaves seventy-nine days from the CPL 30.30 [1][b] ninety day period. (page 6, paragraph 15)

Here Ploetz claims that only 11 Days, however the People served on the Defedant's lawyer, in April 18th, 2016 the Notice found above and the case cited by Ploetz is very clear, when the People decided to take it the Grand Jury, illegally I might add the clock started running again. The only issue is when did it start to run, was it on March 10, 2016 or April 18, 2016 when the Defendant's Attorney was served with the Notice? Here was another interesting criminal act by the District Attorney that took place. She did file the Notice of Grand Jury Presentment in the case unlike all others where she did. What this allowed is for Ploetz to claim plausible deniably. This is more fraud upon the court.

However the date on the Notice was dated April 18th, 2016 and he was to be called as a witness on the 21st of April, only 3 days away, which if the defendant was actually handed a Notice that cited the alleged laws violated he could have prepared for the Grand Jury and most likely would have appeared. But because Rieman purposely left out the actual statues violated there was no way for him to prepare in that short amount of time. The Defendant was perplexed as well as his Attorney. Back to the time charged. The case law clearly shows that the People are to be charged from statement of readiness to statement of readiness; 39 Days.

Some post-readiness time may be charged to the People for producing grand jury minutes. The time period between the July 28, 2016 omnibus motion and the October 12, 2016 production of the grand jury minutes is seventy-six days (not counting the date of production) – but not all of the time would be chargeable because a reasonable period is allowed for producing the minutes (People v Harris 82 NY2d 409 [1993] [excluding 36 days]; People v Van Deusen 228 AD2d 987 [3d Dept 1996] [excluding 47 days]). The court, however, decline to decide what excludable period is reasonable here because that determination is immaterial. The total production period was seventy-six days (before making any reduction), ; thus the chargeable time cannot exceed the remaining CPL 30.30 balance of seventy nine days. (page 6, paragraph 16).

Defense counsel asks the court to disregard CPL 30.30 [4] and not consider time for defense motion, adjournments, or appearing with counsel. He ignores, however, the prosecutor's March 10, 20156 statement of readiness that was made on the record in open court and that it stopped the CPL 30.30 clock (People v Cortes 80 NY2d 201, 213 [1992]). Moreover, his claims are without merit… Because??? (page 6, paragraph 17)

Poetz shots himself in the foot by citing People v Van Deusen and completely misrepresents what it finds;

*"On August 13, 1993, a pretrial omnibus motion was filed on behalf of defendant, returnable August 24, 1993, which sought, inter alia, production and inspection of the Grand Jury minutes (see, CPL 210.30**). The People did not oppose the County Court's review of the Grand Jury minutes.** On August 30, 1993, defendant's motion to inspect the minutes was granted and the court ordered their production. The People acknowledge receipt of that order on August 31, 1993. Thirty days later, on September 29, 1993, the People filed the Grand Jury minutes with the court."*

"As to defendant's motion seeking inspection of the Grand Jury minutes, we agree that if the People do not object to such relief, their obligation to produce the minutes within a reasonable period generally commences from the date that the motion is made (*see,* People v Harris 82 NY2d 409, 413). While the People concede that defendant's motion papers were received on August 13, 1993, they contend that the appropriate date to trigger their obligation is the August 24, 1993 return date. Noting that *People v Harris* (*supra*) made no reference to a return date and instead referred to the date that the motion was "submitted" (*supra,* at 412) and that CPLR 2211 provides that a motion is made when the papers are served, we conclude that unless the People object to the relief sought, the obligation to

produce the minutes within a reasonable time begins to run on the date of service, not the return date."

In this matter Defendant filed his Omnibus motion on August 28, 2016 asking for the production of the Grand Jury minutes (Omnibus Motion, paragraph 90) for the court and the Defendant. The People did not oppose it and actually stated in their response on August 15th, 2016 that they would have no problem producing the minutes for the court.

Based on the law it is clear that the chargeable time for production of the minutes ran from August 28, 2016 to October 12, 2016, which was 45 days charged to the people.

First, defense counsel contends Defendant was not arraigned on the February 28, 2016 set of traffic tickets and thus no CPL 30.30 time should be excluded. The facts, however, are otherwise. The transcript from the Ellicottville Town Court on April 14, 2016... (page 7, paragraph 18)

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...demonstrate Defendant was arraigned on the charges . Further, even if Defendant had not been arraigned on February 28th, tickets, pre-arraugnment delays are excusable under CPL 30.30 [4] (People v Cortes 80 NY2d 201, 213 [1992]). And the March 10th statement of readiness could apply to both sets of tickets having duplicate charges (People v Bowers 4 AD3d 558, 559 [3d Dept 2004], lv denied 2NY3d 796 [2004]). (page 7, paragraph 18)

Ploetz conveniently leaves out other times that are chargeable to the People, that being from October 26, 2016 when he decided on the Omnibus Motion of the victim to November 15, 2016, the hearing on motions on which Ploetz actually granted.

People v E.C. 26 Misc 3d 609 clearly establishes the fact that once the court schedules an hearing, the date that to court orders the hearing starts the clock again and is chargeable to the people;

"The defendants filed their motions and, on March 19, 2009, the People filed their responses and pretrial suppression hearings were ordered to complete the pretrial motions. The cases were adjourned to April 16, 2009, for pretrial hearings to be conducted as well as for trial. This period is excludable "since the time from the determination to order an evidentiary hearing, indispensable to the court's ability to decide the pending motion to suppress, until the first date scheduled for that hearing must be excluded as the period during which [defendants' motions were] 'under consideration by the court' (CPL 30.30 [4] [a]; see People v Taylor, 16 Misc 3d 339 [Crim Ct, NY County 2007] . . .)." (People v Williams, 19 Misc 3d 675, 677 [Crim Ct, NY County 2008]; see also People v Sinisgalli, 24 Misc 3d 135[A], 2009 NY Slip Op 51489[U] [App Term, 1st Dept 2009].) (67 total chargeable days.)"

That would add an additional 20 days, however the victim filed a 30.30 motion on November 9, 2016 which stopped the clock again making only 14 days chargeable to the People.

The on March 22, 2017, the date of this order, Ploetz schedule a pretrial to April 3, 2017. That is another 12 days tacked on, for a total of 149 days, well beyond the 90 time limit even if you subtract the February 28, 2016 to March 10, 2016 time frame.

- Sunday, February 28, 2016 to Thursday, March 10, 2016 - 11 Days
- Thursday, March 10, 2016 to Monday, April 18, 2016 – 39 Days
- Monday, April 18, 2016 to Sunday, May 15, 2016 – 28 Days
- Sunday, August 28, 2016 to Wednesday, October 12, 2016 – 45 Days
- Thursday, October 26, 2017 to Thursday, November 9, 2017 – 14 Days

- Wednesday, March 22, 2017 to Monday, April 3, 2017 – 12 Days

Next, defense counsel contends the DWAI traffic ticket was facially insufficient because a chemical test taken three hours after Defendant's arrest showed a BAC of .045. This test result, however, only creates a rebuttable presumption Defendant was not impaired and does not negate the facial sufficiency of the accusatory instrument (People v Blair 98 NY2d 722 [2002]; People v Lawrence 53 AD2d 705 [3d Dept 1976]; VTL 195 [2][a]). (page 7, paragraph 18)

The fixation by Ploetz on a charge that was never indicted in concerning. Will he attempt to add this to trail in the hopes that the Jury will find the victim guilty? He once attempted to get another victim to plea to a charge that had already been thrown out so it would not be a surprise if he or Rieman did attempt something like this. The victim did not consent to a blood draw, he did consent to a breathalyzer but they would not let him take one. He wanted the results instantly so he could insure they were not tampered with. He was not allowed. It had to be a blood draw and they threaten him. Numerous deputies were surrounding him during this time and attempting to get him to admit to things he did not do. They even implied that he had droven all the way from Buffalo with his lights out.

Further you will notice that Ploetz states victims BAC was at .045%, which is a violation of NYCRR: 10 CRR-NY 59.2 (a), which mandates that the BAC content rounded off to tenth power and at the lower end. For example of the test came back .0478% by law it must be rounded off to .04%. This is a perfect example of the vindictive nature of Poletz has against the victim. By using the .045% he illegally makes it appear higher.

Then it came to the actual blood draw and the test results at the hospital, which showed .0567% BAC which is proof of the tampering of the blood sample. When the technician took the sample he saturated the victims are down will rubbing alcohol and put the needle in while it was still wet, which is also against the law pursuant to NYCRR: 10 CRR-NY 59.2 (d). This was not the only violation of protocol that occurred. The technician was using serum vials, which is distinguishable from vials that contain preservatives. BAC vials always use gray capped vials in order to preserve the BAC count. The technician then placed the unsealed vials into a box and gave the box unsealed over to the Ellicottville Police Officer box unsealed. This was the same EPD officer who either lost or destroyed two hours worth of video tape from the hospital, which of course the missing video was in the time frame of the blood draw and being surrounded by other law enforcement the most opportune time for video to come up missing. The most insidious event that occurred that evening the fact that hospital personal refused to even look at the injury that caused him to be taken to the hospital in the first place. His head injury that caused blood to start flowing out of his ear, which is a sign of a concussion or skull fracture. He left the hospital with the blood still coming out of his ear and there is nothing in the medical reports to document what occurred.

Not only that it took the victim close to a year to see a specialist on the brain injury issue (he lost parts of his memory that evening from the head injury among other issues), the appointments were constantly being postponed with no explanation for real specialist. How convenient, injuries tend to heal up in a years' time frame and you learn to live with the results the injuries cause. The two photos that prove the fact of the injury that occurred are posted here. One is an official one taken by the police on scene and the other is a snapshot of the from the police body cam as he is leaving the hospital shows that Olean General Hospit

Ploetz cite of People v Blair just lays out the groundwork for establishing a prima facie case of intoxication which does not apply in this matter because of all the violations of law that occurred leading up to, **and**

including the drawing of the blood which would have been toughly documented if the two hours worth of video tape had not come up missing.

Ploetz's People v Lawrence cite provides the guidelines for claiming that just because a person BAC is not at, or about the amounts prescribed in the statute doesn't mean they are not intoxicated, which because their was tampering with the vials which could have included injecting the vials with ethyl alcohol we will never know what the true BAC content was (Drunk Driving Defense, Dec 19, 2005, by Lawrence E. Taylor and Steven Oberman § 7.01 [A] page 547).

Then he specifically points out three hour time frame that it took to get the blood draw. The victim succumbed to the impermissible coercion from the attack and the presence of law enforcement all other the place in the hospital and the blood was drawn which that part of the video tape went missing. Its not the victim fault that the cops called the ambulance and the delay that it caused when there were breathalyzers less then five minutes away from the scene just like he claimed in People v Arthur 209 AD2d 175, 176 [1st Dept 1994] .

Pletz was aware of all of this yet there is no mention whatsoever about the injuries that occurred in his 'order'. Fair and unbiased? You be the judge.

Further, defense counsel claims the DWAI charge was factually insufficient because the People abandoned it and did not indict it. A charge is not factually baseless simply because the People elect not to pursue it further. Moreover, the factual insufficiency of one charge (of several pending) does not nullify a statement of readiness and excludable time (People v Stone 265 AD2d 891 [4th Dept 1999], lv denied 94 NY2d 901 [2003]); see CPL 30.30 [5] [concerning recalculation of time when charges are reduced or abandoned] ; People v Morales 309 AD2d 1065. 1066 [3d Dept 2003], lv denied 1 NY3d 76 [2003] [rejecting claim that filing a superseding indictment means the first indictment was illusory and the People claimed were 'unready"]). (page 7, paragraph 18)

Ploetz's People v Stone speaks for itself *"concerning recalculation of time when charges are reduced or abandoned"*. In the matter of the victim there were no charges there at all unlike stone. Another misapplication of the law by Ploetz. Further Stone dealt with indictments which are supersede-able, unlike simplified traffic informations. CPL § 1.20 in the manner in which this occurred

To break it down simply;

1. Original Simplified Traffic Informations file on February 27, 2016 (see EPD Kowalski's memo, one of which was a misdemeanor DWI charge.
2. Original Simplified Traffic Informations are superseded which was not allowed, they can only be amended or dismissed and new charges filed as long as it is in the 30.30 guidelines. Superseding Simplified Traffic Informations are filed which were a nullity. Therefore no charges existed at all which denied any type of authority for them to move forward. This is where the lost subject matter jurisdiction.
3. Matter was taken to the grand jury pursuant to CPL 170.20 based on a misdemeanor charge that did not exist which was also another violation of due process rights because CPL 170.20 clearly spells out there needs to be a misdemeanor charge.

People v Towey 52 Misc.3d 471 28 N.Y.S.3d 838 provides a good understanding of how Ploetz skewed the facts;

"Filing in local criminal court of two long-form informations charging defendant with two counts of driving

while intoxicated (DWI), after the People had filed a single-count simplified traffic information charging defendant with DWI, was not an improper attempt to supersede the simplified traffic information; ***the two counts in the long form informations were additional, different charges premised on same event,*** *and it was reasonable to infer, assuming the existence of facial sufficiency, that the People intended to proceed before the trier of fact on all three counts."*

Notice they were two different counts. This is important because in this area of his order (page 7, paragraph 18) Ploetz starts using the term DWAI and repeats it once more making it appear as if that may have been one of the charges along with the DWI charge mentioned for the first time in his order in the next paragraph. How convenient. Police routinely charge victims with similar crimes like DWI common law and DWI aggravated. This would leave an appellant court with the impression that two DWI related charges were filed which they were not. In this matter the victim was charged with;

1. DWI common-law VTL 1192.3
2. Inadequate lights VTL 375, 2(a)1
3. Failure to signal stop VTL 1163 (c)

They were superseded with the exact same charges using the same exact accusatory instruments, *i.e. simplified traffic informations.* Ploetz even admitted they were superseded. See how evil Ploetz is?

*"…**a simplified traffic information cannot be superseded by another simplified traffic information, by a prosecutor's information, or by a long form information** (see e.g., People v. Kearns, 46 Misc 3d 43, 1 NYS3d 729 [App Term 2d Dept 2014]; People v. Greco,12 Misc 3d 83, 819 NYS2d 630 [App Term 2d Dept 2006]; People v. Baron, 107 Misc 2d 59, 438 NYS2d 425 [App Term 2d Dept 1980]; People v. Tate, nor, 2014 NY Slip Op 51587U [App Term 2d Dept 2014]; People v. Donnelly, nor, 2010 NY [*4]Slip Op 52376U [App Term 2d Dept 2010]). Indeed, as made, Defendant's primary argument is premised on the fallacy that count 1 has been dismissed and replaced by counts 2 and 3. This is not a case, however, where the People are trying, improperly, to correct some defect in the simplified traffic information (cf. People v. Greco, supra; People v. Baron, supra)."* See also CPL § 100.50.

Finally, Defendant, moving pro-se, challenged the validity of the traffic tickets on different grounds than his counsel. For example Defendant claimed the February 28th tickets are a nullity because superseding traffic tickets are impermissible, whereas defense counsel's motion provided, "That defendant was never arraigned on the second... (page 7, paragraph 19)

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...accusatory instruments, namely the amended information' filed on February 28, 2016 by the People (para 7) and the tickets were insufficient because f the low BAC result (para 6) and the Peoples determination not to go forward with the DWI charges (para 8). The positions taken by Defendant and his attorney are inconsistent and contradictory. (page 8, paragraph 19)

Notice the "DWI" charge terminology? So what if they are contradictory? Notice also Ploetz does not cite ANY AUTHORITY to allow him to ignore a challenge to jurisdiction? Therefore his argument that e can just 'blow-off' this important threshold challenge is without merit. Further the Supreme Court of the United States is very clear when it comes to challenges to jurisdiction;

- "There is no discretion to ignore lack of jurisdiction." Joyce v. U.S. 474 2D 215.
- "The law provides that once State and Federal Jurisdiction has been challenged, it must be proven." Main v. Thiboutot , 100 S. Ct. 2502 (1980)
- "The burden shifts to the court to prove jurisdiction." Rosemond v. Lambert, 469 F2d 416.

It is significant that the defense counsel got a second bite at the CPL 30.30 motion after Defendant's pro se motion was filed, and counsel crafted his own arguments but did not specifically incorporate pro-se claims. Counsel instead asked at oral argument to generically incorporate the prose motion. This seems unfair and inappropriate because, in essence, defense counsel asks the court to do what he would not do –parse Defendant's dense pro-se motion for meritorious claims 'adopt' the pro-se motion. In this context, the pro-se claims seem to have been waived. (page 8, paragraph 20)

Here is where Ploetz offers more proof of his contradictory, lies and misleading state of mind in order to deprive the victim of his rights. commits perjury again. The victim's attorney asked if he could supplement the victims 30.30 motion and Ploetz agreed, twice. Again Ploetz does not cite ANY AUTHORITY to allow him to make this conclusion which is another nullity by Ploetz. The victims pro-se claims because they laid out in detail what happened that evening and Ploetz could not have any of that.

Even if the pro-se arguments were not waived, they are meritless. For example, assuming the February 28thm 2016 tickets were a nullity, the February 27th, 2016 tickets would have remained operative, and excludable CPL 30.30 time would still apply. And regardless of whether the February 27th or the 28th tickets were operative, the instant indictment can, and did supersede the traffic tickets (CPL 170.20). (page 8, paragraph 21)

Here Ploetz admits the CPL 170.20 was the authority that gave DA Rieman the ability to place it in front of a Grand Jury, providing she had valid charges, which she did not as described above [People v. Tyler 1 N.Y.3d 493 *"defendant was 'charged' when he was ticketed"*]. If she did have valid charges and one of the was a misdemeanor charge she would have been able to place it before the Grand Jury pursuant to CPL 170.20 (2);

CPL 170.20 (2) At any time before entry of a plea of guilty to or commencement of a trial of an accusatory instrument specified in subdivision one, the ***district attorney may apply for an adjournment of the proceedings in the local criminal court upon the ground that he intends to present the misdemeanor charge in question*** *to a grand jury with a view to prosecuting it by indictment in a superior court.*

Defendant's motion denied.

Just more Proof just how unfair and biased Ploetz is.

4. Obstruction of Government administration.

Defendant contends the indictment is facially insufficient because it mirrors the statue abd does not detail Defendants offensive conduct. Parroting the statue, however, is generally sufficient (People v Fitzgerald 45 NY2d 574 [1978]), and "[t]he incorporation by specific reference to the statue operates without more constitute allegations of all the elements of the crime (People v D'Angelo 98 NY2d 733, 735 [2002]...(page 8, paragraph 22)

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...indictment parrots the statute, it is the Bill of Particulars that provides information specific to the crime charged (People v Mackey 49 NY2d 274, 278 [1980]); People v Fitzgerald 45 NY2d at 580). (page 9, paragraph 22)

This is a moot argument because the indictment is invalid from the beginning because of the superceding simplified traffic informations. If it was not then Ploetz would be correct in his assertion, one of the only thing he got correct in his whole order.

Here the indictment uses the words of the statue and cites the applicable section of the Penal law, and the Bill of Particulars provides information specific to the crime charged. The indictment and the bill of particular sufficiency support the charge of obstructing governmental administration (People v Graham 54 AD3d 1056 [2d Dept 2008]); People v Dumay 23 NY3d 518 [2014]; Matter of Davan L., 91 NY2d 88 [1997]. (page 9, paragraph 23)

Ploetz is referring to the Bill of Particulars for the indictment, not the original one filed for the superseding simplified traffic informations, which again because the indictment is null so would this Bill of Particulars.

Further the victim challenged the duplicitous charges in the matter. This is where you are charged twice for the same alleged crime. Prosecutors often do this to force their victims into a plea bargain. The victim was indicted' twice for VTL 1140A and VTL 1163C;

VTL 1140 (a). Vehicle approaching or entering intersection. (a) The driver of a vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection from a different highway.

VTL 1163 (c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

In this matter the victim brought this to the attention to Ploetz in his Omnibus Motion paragraph 42 and Ploetz completely ignored the issue. Ploetz violated case law when he ignored this challenge. It's called duplicitous and/or multiplicity, and the appeals courts have been very clear, a person cannot be 'charged' for the same conduct arising out of the same event. People v Bauman 12 NY3d 152 lays it out in easy to understand terms;

"CPL 200.30 (1) provides that "[e]ach count of an indictment may charge one offense only." As this Court explained in People v Keindl (68 NY2d 410 [1986]), ***"acts which separately and individually make out distinct crimes must be charged in separate and distinct counts, and where one count alleges the commission of a particular offense occurring repeatedly during a designated period of time, that count encompasses more than one offense and is duplicitous"*** *(id. at 417-418 [citations omitted]). Compliance with CPL 200.30 (1) is essential because* ***"[t]he prohibition against duplicity furthers not only the functions{**12 NY3d at 155} of notice to a defendant and of assurance against double jeopardy, but also ensures the reliability of the unanimous verdict"*** *(id. at 418)."*

There was only one event that evening occurring within about 1.5 mile stretch of road. Here Ploetz and the Grand Jury clearly violated the victims double jeopardy rights. Another example would be when Catherine Ensell, the sister of 'ADA' Elizabeth Ensell stabbed someone in the Olean, New York area. If she stabbed the person twice in the same time frame she could not be charged with two counts of assault with a deadly weapon, she could only be charged once.

Then you have the VTL 375-(30) count charge that was also challenged by the victims Omnibus Motion in the same paragraph 42. That has already been ruled unconstitutional. The victim had cited People v O'Hare, 73 A.D.3d 812, 900 N.Y.S.2d 400, and it is clear;

"Further, the defendant's witness at the hearing, a forensic safety engineer, testified that the air freshener hanging from the defendant's rearview mirror was at dashboard level on a string measuring one-tenth of one inch wide, and would not have obstructed the defendant's view in violation of Vehicle and Traffic Law § 375(30) (see People v MacKenzie, 61 AD3d 703)."

Decision & Order Dated October 26, 2016

In Ploetz's October 26, 2016 Order Ploetz denied almost everything the victim requested. While we could go though it step by step what he did wrong, however we are going to focus two specific charges. The ten count indictment comprised of one misdemeanor and nine traffic violations. **This appears to be a historical first in the county in which charges of this nature have ever been taken to a Grand Jury, Rieman and Ensell would convince the Grand Jury to charge the victim with the same violations twice, which Ploetz knew about. This is illegal and proves Rieman and Ensell lied to the Grand jury, which is fraud upon the Grand Jury Process. Rieman and Ensell committed this fraud on numerous occasions;**

1. Did not have the authority to take it to the Grand Jury because the original simplified traffic informations were superseded which is not allowed by law [PL § 100.50, People v. Greco, 12 Misc.3d 83 (2006), 819 N.Y.S.2d 630], and;
2. Even if the original simplified traffic informations were not superseded the misdemeanor charge Rieman and Ensell brought to the Grand Jury Mr Kochan was never charged with [CPL 170.20].
3. Rieman and Ensell lied to the Grand Jury about being able to charge Mr. Kochan twice for the same alleged crimes, a violation of his double jeopardy rights.

Ploetz was aware of all of this. Mr. Kochan's Omnibus Motion and other documentation he filed, including but not limited to a motion to recuse Ploetz clearly spelled it out, which Ploetz denied. IN New York it is the Judge you file a recusal against that gets to determine whether or not they should remove themselves from the case. Hitler would have loved it here.

The law is very clear you cannot charge a person twice with the same crimes that occurred in the same incident. Was 'ADA' Elizabeth Ensell's sister Catherine Ensell charged for assault multiple times when she hit the woman over the head with a Goldschlager bottle, was she charged multiple times with assault with a deadly weapon when she stabbed the other woman?

in People v Alonzo 16 N.Y.3d 267 case, it is very clear;

"Prosecutors and grand juries must steer between the evils known as "duplicity" and "multiplicity." An indictment is duplicitous when a single count charges more than one offense *(e.g. People v Bauman, 12 N.Y.3d 152 [2009]; People v Keindl, 68 N.Y.2d 410 [1986]). It is multiplicitous when a single offense is charged in more than one count (e.g. People v Senisi, 196 A.D.2d 376 [2d Dept 1994]). A duplicitous indictment may fail to give a defendant adequate notice and opportunity to defend; it may impair his ability to assert the protection against double jeopardy in a future case; and it may undermine the requirement of jury unanimity, for if jurors are considering separate crimes in a single count, some may find the defendant guilty of one, and some of the other.* ***If an indictment is multiplicitous it creates the risk that a defendant will be punished for, or stigmatized with a conviction of, more crimes than he actually committed...***

...the ultimate question is which result is more consistent with the Legislature's intention. ***As a general rule, however, it may be said that where a defendant, in an uninterrupted course of conduct directed at a single victim, violates a single provision of the Penal Law, he commits but a single crime.*** *Thus, a physical attack by one person upon another is normally but one assault, though the*

attacker may hit the victim several times. A contrary rule would offer a temptation to abuse: Where there were 10 swings of a fist, a prosecutor might obtain 10 convictions growing out of a single incident—and could even seek 10 consecutive sentences, for Penal Law § 70.25 (2) does not require concurrent sentencing for crimes committed through separate acts."

New York Criminal Procedure Law § 40.10 (2) is very clear;

"Criminal transaction" means conduct which establishes at least one offense, and which is comprised of two or more or a group of acts either (a) so closely related and connected in point of time and circumstance of commission as to constitute a single criminal incident, or (b) so closely related in criminal purpose or objective as to constitute elements or integral parts of a single criminal venture."

At a minimum, Pleotz should have removed himself from Mr. Kochan's case but refused to do so. The law is very clear on that subject also;

Matter of Hof 102 A.D.2d 591,594 (N.Y. App. Div. 1984) "The critical issue here, moreover, is not the actual or probable betrayal of confidences, but the mere appearance of impropriety and conflict of interest (Code of Professional Responsibility, Canon 9)"

This serious issue is also spelled out on the official New York State Court website;

Section 100.2 A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

- **A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.**
- A judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment.
- A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.
- A judge shall not hold membership in any organization that practices invidious discrimination on the basis of age, race, creed, color, sex, sexual orientation, religion, national origin, disability or marital status. This provision does not prohibit a judge from holding membership in an organization that is dedicated to the preservation of religious, ethnic, cultural or other values of legitimate common interest to its members.

Ploetz is unfit as a judge and Rieman and Ensell are unfit as prosecutors and should be removed from the bench immediately.