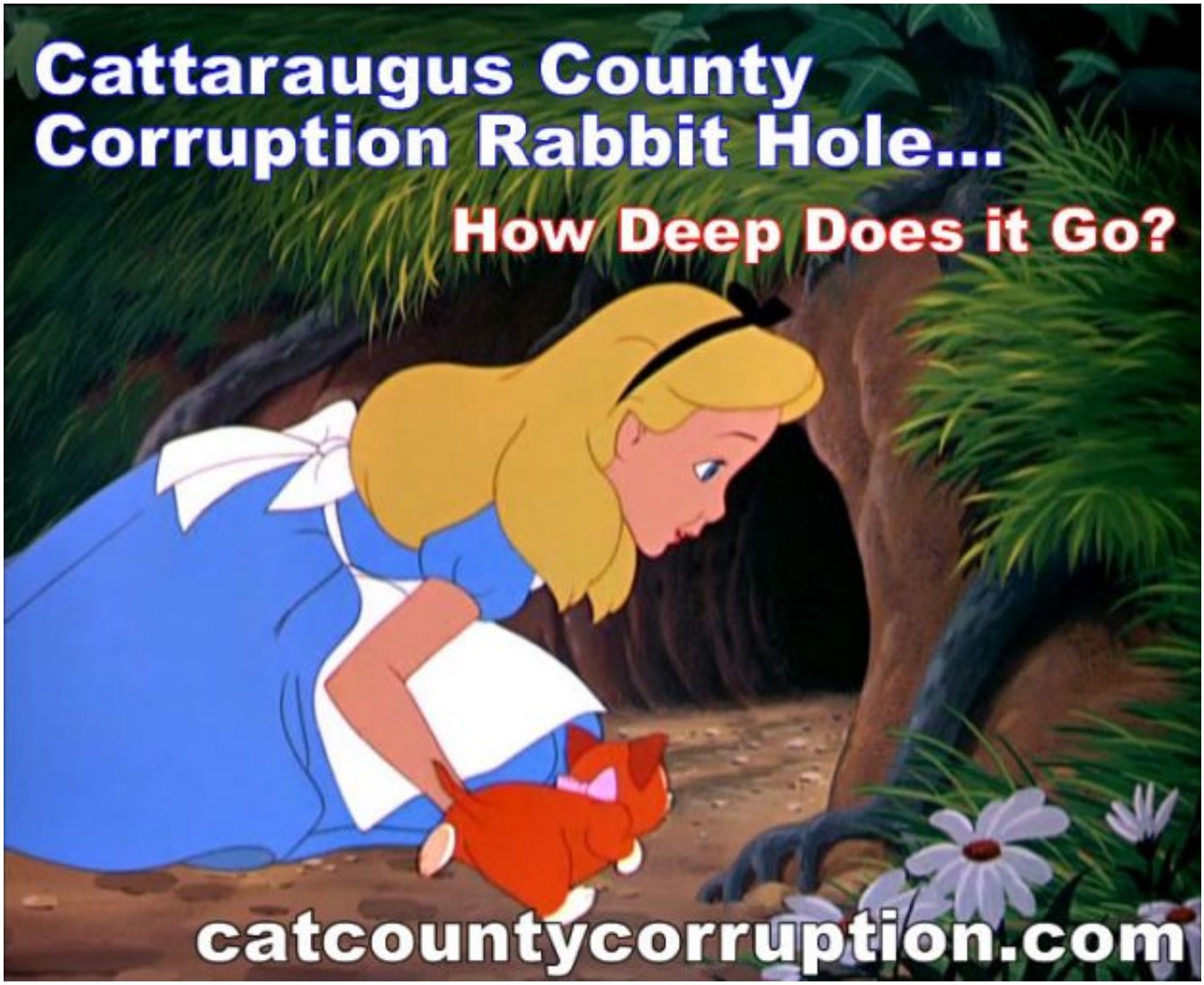
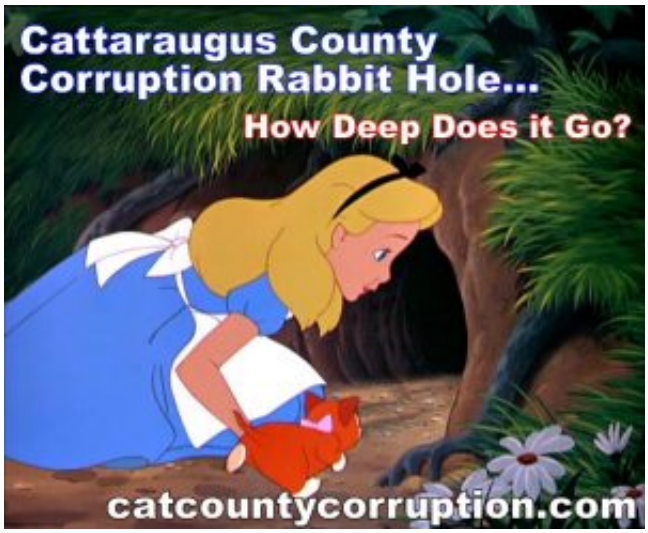
No Jurisdiction, No Authority to Prosecute. 'DA' Lori Rieman Proves She is a Criminal Once Again!



As discussed in a previous article concerning a local matter, in which a local pro-se litigant is exposing **vast corruption in the Cattaraugus County, New York government,** specifically the criminal activity of the District Attorney and Cattaraugus County Sheriffs Office, the Pro Se, at a hearing to renew and reargue a Motion to Change Venue (which is simply changing the location of a trial within a county) in County Court, challenged the jurisdiction of the DA and the Court. What do you think the County Court did....



The Cattaraugus County Court and Machais court engaged in a cover-up of the crimes committed by Lori Rieman, Elizabeth Ensell, Kelly Balcom, Matthew Albanese and Bryan H Schwabenbauer, and thereby became accessories to the crimes, against the Pro Se litigant.

If the DA/Court does not have jurisdiction, they do not have the authority to hear/try the case. PERIOD. It must be dismissed. This is the law... so it is supposed to be...

The People cannot be ready if their accusatory is invalid, for the defendant [alleged] may not be tried on an invalid accusatory (People v McCummings, 203 AD2d 656 [3d Dept 1994]; People v Walsh, 17 Misc3d 480 [Crim Ct 2007]).

But not in Cattaraugus County New York...

The Pro Se decided to bring up an instant motion to challenge jurisdiction in the County Court, **which can be done either verbally or in writing and it can be done at anytime.** Challenges to Jurisdiction may be raised at anytime. ***"[w]ant of jurisdiction is a basic defect, it may be raised at any time and can never be waived."*** ?People v. Nicometi, at 431, 240 N.Y.S.2d 589, 191 N.E.2d 79, see also People v Hohmeyer, 70 NY2d 41, 43 (1987); People v Peacock, 68 NY2d 675 (1986); People v Alejandro, 70 NY2d 133 (1987). Do you think the county court would rule on it? Nope the Judge said *"that's for the lower court"* WRONG! challenges can be made at anytime and anywhere.

None of the simplified informations were signed, *i.e. verified*, by Albanese, therefore the court(s), nor the people have any jurisdiction to try the case AT ALL. This is very important...

Lori Rieman had NO AUTHORITY TO MOVE FORWARD AT ALL. SHE WAS MANDATED BY LAW TO DISMISS THE CHARGES.

Many People fall under the assumption that a appearance ticket is the charge. It is not, It is well settled that an appearance ticket is not an accusatory instrument and its filing does not confer jurisdiction over anyone. See People v. Horner, 176 Misc 2d 93. To your right is what an appearance ticket looks like. Notice it is signed by Albanese, yet the Simplified Informations are not. **There are even videos of the court file taken well after the arraignment that are distributed far and wide to prove it.**

The Pro Se wished to have the charges originally dismissed, with prejudice, on the exceptionally serious misconduct of Albanese and the other alleged law enforcement officers at the time, because their acts are a **clear and present danger to the public at large,** further The People have already admitted that Albanese lacks the mental reasoning ability to carry out the functions of a law enforcement officer and should be removed from his position. This is clearly seen in his bogus governmental obstruction charge were he claims that it is illegal to remain silent. The people have also admitted to the fact that Bryan H Schwabenbauer did assault the pro se litigant while he was kidnapped and being held against his will. Schwabenbauer **HIMSELF ADMITTED TO IT!**

What is really scarey, it also appears that Cattaraugus County is one of the only counties in New York that DOES NOT require an individual to take a psychological examination if they wish to become a law enforcement officer.

It was the duty of the District Attorney Lori Rieman to dismiss all charges, with prejudice, in the interests of justice for the exceptionally serious misconduct she, as well as her employees committed including the employees of the Sheriffs department and/or for lack of jurisdiction,

Did she? of course not, why would she obey the law? Lori Rieman strikes again.

In Bennett L. Gershmans Publication *"The Prosecutor's Duty to Truth"* 2001, page 309, Pace University School of Law, Gershman clearly described what Reiman and her employees were required to do. They, as well as others in fact did the exact opposite. In this publication, a law professor, while working for the DA's office at the time, reflected on a case in which he believed the defendant was innocent. He moved to have the case dismissed, even though the judge did not like it.

First we must understand what a "*accusatory instrument"* is. In People v Horner 30 Misc 3d 1207(A), the court would define what one is;

“An accusatory instrument is defined as "an indictment, an indictment ordered reduced pursuant to subdivision one-a of section 210.20 of this chapter, an information, a simplified information, a prosecutor's information, a superior court information, a misdemeanor complaint or a felony complaint. Every accusatory instrument, regardless of the person designated therein as accuser, constitutes an accusation on behalf of the state as plaintiff and must be entitled, "the people of the state of New York" against a designated person, known as the defendant." see also C.P.L. § 1.20(1).

It is a valid simplified information that confers jurisdiction, *i.e. the authority to prosecute.* However, a simplified information must comply with the commissioner of motor vehicle mandates, see CPL § 100.25[1];

“A simplified information must be substantially in the form prescribed by the commissioner of motor vehicles, the commissioner of parks and recreation, or the commissioner of environmental conservation, as the case may be.”

The Court of Appeals cited other case precedent as to jurisdictional issues;

“A valid and sufficient accusatory instrument is a nonwaivable jurisdictional prerequisite to a criminal prosecution” (People v. Dreyden, 15 NY3d 100, 103 [2010], citing People v. Case, 42 N.Y.2d 98, 99 [1977]; People v. Hansen, 95 N.Y.2d 227, 230 [2000]).”

“It is indisputable that the simplified traffic information must be verified” People v Radak 52 Misc.2d 300 (1966)

The “Official Compilation of Codes, Rules and Regulations of the State of New York, Title 15, Department of Motor Vehicles, Chapter 1, Regulations of the Commissioner, Subchapter G, Uniform Traffic Ticket 15 CRR-NY 91.7 (b) (1)” specifically mandates that the simplified information must be verified or affirmed by the officer;

“15 CRR-NY 91.7 (b) (1); Part II of the packet is the simplified traffic information, and after having been verified or affirmed by the officer is delivered to the court in which the alleged violator is notified to appear.”

CPL § 1.20(1) shows that a simplified information is an accusatory instrument;

"Accusatory instrument" means an indictment, an indictment ordered reduced pursuant to subdivision one-a of section 210.20 of this chapter, an information, a simplified information, a prosecutor's information, a superior court information, a misdemeanor complaint or a felony complaint. Every accusatory

instrument, regardless of the person designated therein as accuser, constitutes an accusation on behalf of the state as plaintiff and must be entitled "the people of the state of New York" against a designated person, known as the defendant."

Again, it is well-settled that all accusatory instruments must conform to law "[a] valid and sufficient accusatory instrument is a nonwaivable jurisdictional prerequisite to a criminal prosecution." ?People v. Johnson, etc... A perfect example of what should have occurred can be found in case law (i.e. common law), at People v. Levine 80 Misc.2d 292;

"The defendant was given an appearance ticket to appear the next day at the District Court,,,,

"On August 26, 1974, the defendant did appear at headquarters and was processed. ***He,...without counsel...*** *appeared in the District Court before Hon. William Gitelman, who was then presiding in the arraignment part. The complainant, Mark Bilus, failed to appear to sign the accusatory instrument...* ***The District Attorney moved to withdraw and dismiss any charge against the defendant."***

This proves that the "District Attorney" Lori Rieman was mandated to dismiss the charges at the time of arraignment, or shortly thereafter and in fact did the exact opposite. Further proof she is not fit for office.

Further, by the failure of the County Court to move on the clear question of lack of jurisdiction, the County Court conspired with the District Attorney and violated the Pro-Se defendants due process, right to petition and being treated equally before the law...

If the criminals Rieman, Balcom or Marshall claim, or attempt to claim that they file a supporting deposition in the matter, in an attempt to do an end run around the fact that the simplified informations are not signed, this would be committing more fraud upon the court. Here is why;

Complainant, the criminal Albanese signature is what appears on the deposition (# 4). This is in violation of CPL § 100.20 , which specifically states that a supporting deposition ***"…subscribed and verified by a person other than the complainant of such accusatory instrument,"*** Officer Amber Graham was riding along with complainant Albanese and was present the whole time. Therefore she was the one who was required to subscribed and verify the supporting deposition (# 2). See part 4 of supporting deposition.

It was "served" well after the 30 day requirement. The first time this bogus deposition appeared was on August 26th, 2014, when the criminal Kelly Balcom served the 'peoples' response to the Pro-Se's omnibus motion. It was contained in Exhibit A of the peoples response. The time limit is 30 days for a supporting deposition. In this matter it was served well after 90 days. Further, it was voluntarily provided, as such it must meet the same statutory requirements as if it had been demanded [People v Rose 2005 NY Slip Op 25126 [8 Misc 3d 184] citing People v Key (87 Misc.2d 262, 266 [App Term, 2d Dept 1976]].

The time of the Miranda warning does not appear (# 1). Further proof it was never given.

The verification jurat was never dated, therefore it was not verified (# 3). People v Rose 2005 NY Slip Op 25526 [11 Misc 3d 200] ; The failure to properly verify a supporting deposition may result in a jurisdictionally defective accusatory instrument which is subject to dismissal and held that a supporting deposition voluntarily provided to the defendant (just as apparently occurred in the instant case), must meet the same statutory requirements as if it had been demanded In the Matter of Neftali D. at 636, 628 N.Y.S.2d 1, 651 N.E.2d 869 (citations omitted). See also People v Boback 23 N.Y.2d 189 (1968) as to

the mandate that it must be signed. See also People v Shenandoah 38 Misc 3d 1219(A) listing the date as a requirement as a valid requirement for it to be verified.

But it gets better, its not over yet... *"power corrupts, absolute power corrupts absolutely"*