

## Illegal to Remain Silent in New York State



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***"The more corrupt the state, the more numerous the laws" -  
[Tacitus](#)***

Just to see how far this once great state has fallen, it appears that alleged representatives of the State of New York now claim it is a crime to remain silent. What's next water boarding for jay-walkers?

The right to remain silent is a bedrock of American Jurisprudence, but not apparently in New York where it is now considered a crime.



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In New York State law enforcement represents "the People", i.e. the state of New York. That is why when you get a ticket you will see somewhere on the ticket the terminology "the People v John Doe", In this article we will expose how one "Police Officer" named Matthew Albanese, who has [committed perjury](#) on at least three occasions in a criminal matter now claims it is illegal to remain silent while being questioned, Albanese not only works as a local town police officer, he is also a Cattaraugus County Sheriff, just like his partner Bryan H Schwabenbauer, an individual who has admitted to assaulting a local individual as well who has been [sued in federal court for roughing up another individual and committing perjury in which numerous individuals, including four other public officers proved he committed perjury.](#)

A charge he filed concerning a recent case, Albanese charged his victim with "Obstruction of Government Administration 2nd degree."

**Now here is the issue, Albanese at the time of the filing also claimed to represent "The People of the State of New York", i.e. *New York itself*, in doing so he has just proclaimed that New York now considers it a crime to remain silent.**

This type of charge is called an "information", and in New York an information is a stand alone charge, It has to describe the charge and the facts that led to the charge and has to be signed to under penalties of something (the [jurat](#)), which in this case is penal law 210.45.

Here is the 'information' Albanese filed;

STATE OF NEW YORK COUNTY OF CATTARAUGUS

VILLAGE COURT

Defendant: NA (Relationship to alleged victim)

Alleged Victim: NA (Relationship to defendant)

THE PEOPLE OF THE STATE OF NEW YORK -- VS. --

Date of Birth

Defendant(s)

BE IT KNOWN THAT, by this INFORMATION, M ALBANESE as the Complainant herein, STATIONED at [REDACTED] POLICE DEPT. accuses the above mentioned Defendant(s), with having COMMITTED the MISDEMEANOR of OBSTRUCT GOVERNMENTL ADMIN-2ND in violation of Section 195.05 Subdivision of the PENAL Law of the State of New York.

That on or about \_\_\_\_\_ at about \_\_\_\_\_ in the \_\_\_\_\_, County of CATTARAUGUS, the defendant(s) DID INTENTIONALLY, KNOWINGLY AND UNLAWFULLY COMMIT THE MISDEMEANOR OF OBSTRUCT GOVERNMENTAL ADMINISTRATION-2ND 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, OR BY MEANS OF INTERFERING, WHETHER OR NOT PHYSICAL FORCE IS INVOLVED, WITH RADIO, TELEPHONE, TELEVISION OR OTHER TELECOMMUNICATIONS SYSTEMS OWNED OR OPERATED BY THE STATE, OR A COUNTY, CITY, TOWN, VILLAGE, FIRE DISTRICT OR EMERGENCY MEDICAL SERVICE OR BY MEANS OF RELEASING A DANGEROUS ANIMAL UNDER CIRCUMSTANCES EVINCING THE ACTOR'S INTENT THAT THE ANIMAL OBSTRUCT GOVERNMENTAL ADMINISTRATION. OBSTRUCTING GOVERNMENTAL ADMINISTRATION IS A CLASS A MISDEMEANOR.

THE DEFENDANT DID INTENTIONALLY OBSTRUCT POLICE OFFICERS FROM PERFORMING THEIR OFFICIAL FUNCTIONS BY REFUSING TO PROVIDE PEDIGREE INFORMATION FOR [REDACTED]

FACTS

3

The above allegations of fact are made by the Complainant herein on DIRECT KNOWLEDGE

NOTICE In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. (PL 210.45)

Affirmed under penalty of perjury this \_\_\_\_\_ day of \_\_\_\_\_

--OR--

Subscribes and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

[Signature] #7234  
COMPLAINANT -

Part (1) Albanese charged the victim based on the fact, according to Albanese, his victim "refused to provide... information." Albanese's victim was handcuffed to a metal chair at the time of this happened, which is the definition of custodial custody (see People v. Quarles, 58 N.Y.2d 664, 444 N.E.2d 984, 458 N.Y.S.2d 520 (1982)). The only thing his victim had total control over where his five senses (vision, hearing, smell, taste, and touch) and speech. It is obvious that the victim refused to talk, *i.e. he was exercising his right to remain silent.*

It is clear that Albanese does not understand the phrase "The right to remain silent", you know Miranda v.

Arizona, one of the bedrocks of American Jurisprudence,

**NEW YORK NOW CONSIDERS IT A CRIME IF YOU REMAIN SILENT.**

- ***"There can be no sanction or penalty imposed upon one because of his exercise of Constitutional rights."*** Sherar v. Cullen, 481 F 2d 946(1973)
- ***"A State may not impose a charge for the enjoyment of a right granted by the Federal Constitution."*** Murdock v. Pennsylvania, 319 U.S. 105, at 113.
- ***"The State cannot diminish rights of the people."*** *Hertado v. California*, 110 U.S. 516
- ***"The Claim and exercise of a Constitutional Right cannot be converted into a crime."***-Miller v. U.S. , 230 F 2d 486. 489
- ***"If the state converts a liberty into a privilege the citizen can engage in the right with impunity"*** *Shuttlesworth v Birmingham* , 373 USs 262
- ***"The claim and exercise of a Constitutional right cannot be converted into a crime."*** Miller v. U.S., 230 F. 2nd. 486, 489 (5th Cir. 1959) Id. at 489-490

Now, will he or others, who claim to have an interest in this case fraudulently attempt to use it as a 'plea bargaining chip", if the victim was smart he would just say no and let it go to trial, the jury would laugh them out of court and most likely ask the judge to sign an order for the victim to present this information to a grand jury as evidence of the [wilful misconduct of a public official while in office](#). The motion to dismiss this right to remain silent issue is now before the court. It will be interesting to see the outcome of the motion. It obviously should be dismissed because if it is not that would be a bad move by a member of the judicial branch on New York and I am sure New York would not want to send that type of message to the nation, as well as the world. Further anyone attempting to move such a fraudulent charge forward would also become liable in their official and individual capacity when the victim sues.

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