

VERMONT JUDICIAL BUREAU
P.O. BOX 607
WHITE RIVER JUNCTION, VERMONT 05001
(802) 295-8869

CASE DISPOSITION - MUNICIPAL ORDINANCE

City of Newport v. Peel, Diane
Municipal Ordinance Complaint No. 63073

The following APPEARED on December 21, 2012 at 09:00 am at
Orleans District Court:

Yes No	Yes No
<input checked="" type="checkbox"/> [] Lancaster, Royce	[] [] Mun. Official _____
<input checked="" type="checkbox"/> [] Peel, Diane	[] [] Def.'s Atty _____

The Judicial Officer's Order is as follows:

COMPLAINT DISMISSED:
___ Issuing Officer failed to appear
___ Issuing Officer's motion to dismiss is granted

JUDGMENT FOR THE DEFENDANT BASED UPON THE EVIDENCE

JUDGMENT FOR NEWPORT, CITY OF:
Based Upon: ___ Evidence: Findings Stated on the Record
___ Defendant's Plea: ___ Admitted ___ No Contest
___ Default: Defendant Failed to Appear

Violation: ___ As Charged: VO Disorderly Conduct
___ Lesser-Included Violation: _____
___ Amended Charge: _____

FINDINGS AND DECISION WILL BE ISSUED IN WRITING WITHIN 30 DAYS

HEARING CONTINUED BECAUSE: _____

The Judicial Officer assessed the following against the defendant:

Penalty: \$ 50.00
Filing Fee: \$ 52.50
 Total Due: \$ _____ [] Other 100 ⁵⁰ [] No Penalty

Karen B. Kelly
December 21, 2012
Judicial Officer

NOTICE TO DEFENDANT TO PAY PENALTY

If a penalty is assessed against you, you must pay or appeal by January 20, 2013.
If you fail to pay or appeal by the due date, an additional \$30.00 fee will be
added to the judgment amount. 4 V.S.A. Sec. 1109. SEE ATTACHED SHEET FOR
ADDITIONAL NOTICES.

RIGHT TO APPEAL

A judgment on the merits against you may be appealed to the Vermont District
Court by delivering a NOTICE OF APPEAL (or letter requesting an appeal) and
\$105.00 FILING FEE to the Vermont Judicial Bureau by January 20, 2013. Your appeal
will be based on the exhibits and recording from this hearing, unless you
specifically request a court trial or jury trial in your notice of appeal.

Original to VJB

Yellow Copy to Officer

Pink Copy to Defendant

Vermont Superior Court
Orleans Criminal Division
217 Main Street
Newport, Vermont 05855
www.VermontJudiciary.org - (802) 334-3325

COPY

TRAFFIC APPEAL DOCKET AND JUDGMENT ORDER

DOCKET NO. 3-5-13 Osta

APPELLANT'S NAME & ADDRESS:
Peel, Diane
[REDACTED]
Newport VT 05855

APPELLEE'S NAME & ADDRESS:
State of Vermont

An appeal of Traffic Complaint No. 63073 was filed on 05/03/13.
The appeal was made On the Record.

The appeal was heard on 6/11/13. The decision of the Traffic Bureau was:
 affirmed reversed reversed & remanded for the Traffic Bureau to make findings of the following issues: _____
 other _____

The appeal was dismissed by the Court on _____, appellant did not

The appeal was withdrawn by the appellant on _____. (Before hearing held)

The Complaint was dismissed by the State on _____ - Appeal Withdrawn.
(Notice of Dismissal attached and the Court Vacated the Judgment for the State.)

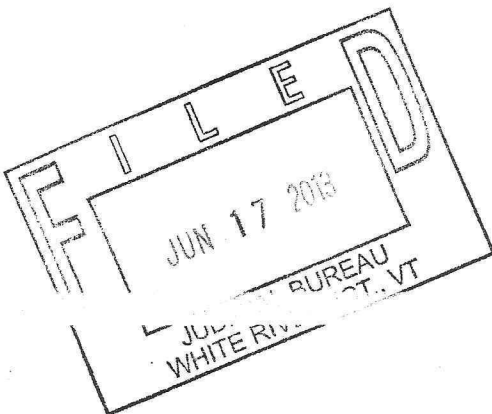
The Complaint was amended by the State on _____ - Appeal Withdrawn.
(Notice of Amendment attached and the Court amended the Judgment to conform to the amended complaint)

Judgment vacated and Complaint dismissed by the Court on 6/11/13. with prejudice
(State/Officer did not appear)

Total Fine & Surcharge of _____ assessed the Defendant.

By Order of the Court:

6-11-13 Date Howard E. VanBenthuyzen Judge's Name (Typed) [Signature] Clerk's/Judge's Signature




COPY

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June 19, 2013

Diane Peel


Newport, VT 05855

P. 2 Dismissal Order in re Appeals of Rogers, Farrow and Peel, June 11, 2013

Moreover, the Court notes that inscribing concrete or paved surfaces with chalk is highly evanescent, and likely to disappear within a few hours of its application. Nothing about the alleged conduct rises to the level of disorderly conduct, as that is usually understood to involve upset, annoyance or inconvenience to innocent passersby or reasonable persons.

Finally, it is hard to imagine a municipality bringing its full weight and majesty to bear on schoolchildren, innocently drawing flowers or hop-scotch squares on a public parking lot or sidewalk. Surely any city, town or municipality has far more pressing concerns. Regardless of the age of the sidewalk artist, and assuming that the content is not obscene, profane, insulting or inciteful of violence, the act of drawing sayings or pictures on the public sidewalks with chalk does not constitute disorderly conduct, either under Newport's Ordinance 95, or the State statutes. 13 V.S.A. §1026.

In a Court with pending felonies and serious misdemeanors involving injury to others, the Presiding Judge has a duty to exercise a modicum of common sense in deciding how scarce resources are applied. Further, he or she must consider the importance of the issues and any principles of law that might result from a particular ruling. Before any further monetary, legal or judicial resources are applied to this rather unusual and *de-minimis* issue, the instant appeals are dismissed, the underlying convictions reversed, and the three tickets dismissed with prejudice.

So Ordered at Newport, Orleans County this 11th day of June, 2013.



Howard E. VanBenthuyzen
Presiding Judge

Tickets for disorderly conduct for writing on sidewalk in chalk

From: dpeel@vtlink.net

Sent: Sat, Aug 25, 2012 at 5:50 pm

To: christopherhalpin@hotmail.com

Dear Mr Halpin: I am a registered nurse in Newport Vermont. I and a few others are members of a small Occupy affiliated group which has been active in Newport since last fall. We are looking for legal representation in contesting tickets which we received from the City of Newport for writing on the sidewalk in chalk in downtown Newport.

We did a similar event last spring after which we received some positive comments. At that time the mayor responded in a Facebook message to me in which he referred to the chalk as vandalism and said it had "turned off" city council members. He didn't indicate that anyone would be charged with anything.

This time a shop owner called the police and the city manager, who came down and took some pictures and washed off the chalk writing within an hour. We heard nothing further for 2 weeks but then my friends received tickets through the Judicial Bureau charging them with Disorderly Conduct. I went to the police station and told them that I was also involved in the event and was given a similar ticket. You can more about it in a news story in the Newport Daily Express from Thursday August 23, or in a Fox 44 Burlington TV story from that evening. The city keeps referring to the chalk as vandalism, though the charge is disorderly conduct. The police chief says he hasn't seen the photos. An officer told one of us that he was asked to arrest us by the city manager, but didn't feel this was appropriate, so we were given the tickets instead. The city manager said in the news story that he doesn't make requests to arrest people but that he had told the police to enforce the vandalism ordinance. (The ticket looks kind of humorous when you read it "Disorderly Conduct---Writing with chalk on sidewalks") We are of course contesting the tickets. The tickets seem mostly punitive for having views some members of the City Council don't agree with.

I have a job with a decent income and am able to pay for legal council. My friends are retired and disabled respectively. We are in our 50's and 60's. Thank you for your assistance in this matter.

Sincerely,
Diane Peel

[REDACTED]
Newport, Vermont
[REDACTED]

RECEIPT

DATE 8/31/12
FROM Diane Peel \$ 15.00
F. Fee 00/100 DOLLARS
 FOR RENT Municipal JCVC 630703
 FOR _____
ACCT. _____ FROM _____ TO _____
PAID 15 00 CASH CHECK
DUE 0 00 MONEY ORDER BY DiSato

August 27, 2012

Dear Newport City Municipal Police Department:

Pursuant to Vermont's Public Records Act, 1 V.S.A. 315-320, I hereby request photocopies of the following records:

- 1) The Police Report for which Vermont Municipal Complaint No. 63073 (Municipal No. 1015, August 15, 2012) relating to writing with chalk on sidewalks on August 1, 2012, was issued
- 2) All photographs of chalk writing on the sidewalk associated with the above Municipal Complaint

I am addressing this request to you in the belief that you are the custodian of such documents. If you are not, I request that you forward my request to the proper custodian of such documents and inform me of who that person is.

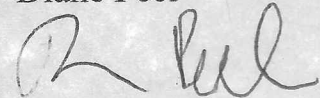
I hereby agree to pay reasonable and customary costs for these photocopies.

If the law does not allow me to have access to some of these records, please so inform me within two business days, as provided by law, and inform me of the specific exemption that applies to each record or portion of a record being withheld. If an otherwise public record has a portion that is exempt from disclosure, I request that you block out the exempt portion and release a copy of the rest of the document together with a notation of the specific exemption that applies to the portion withheld.

If some or all of my request is denied please tell me the title and the name of the person responsible for the denial and, as the law requires, please inform me of the appeal procedures available to me and the name of the person to whom appeal may be made.

Thank you for your help.

Diane Peel



Defendant,
Municipal Complaint
No.63073

Kirk Martin, Sheriff



Telephone: (802) 334-3334

Fax: (802) 334-3307

Tax ID#: 03-0266213

Orleans County Sheriff's Department
P.O. Box 355
Newport, Vermont 05855

PEEL, DIANE

CIVIL PROCESS INVOICE

[REDACTED]
NEWPORT, VT 05855

Thursday, December 13, 2012

Process ID # : 12-1089		Plaintiff: CITY OF NEWPORT							
		Civil Process Type: SUBPOENA				DocketNo: 63073			
<i>Defendant</i>	<i>Person Served</i>	<i>Date Served</i>	<i>Service Fee</i>	<i>Miles</i>	<i>Mileage @ 0.555:</i>	<i>Postage</i>	<i>CopyFee @ 0.25:</i>	<i>Misc. Fee</i>	<i>Detail Total</i>
Ward, John	Ward, John	12/11/2012	\$50.00	5	\$2.78	\$0.45	\$0.25		\$53.48
Mead, Debi	Mead, Debi	12/11/2012	\$50.00		\$0.00		\$0.25		\$50.25
								Subtotal: \$103.73	
								PrePayment: \$120.00	
								Balance: (\$16.27)	

(Note: Any Refund resulting from overpayment appears in brackets () under Balance)

Please make check payable to: Orleans County Sheriff's Department

Please note the Process ID # on your check

Terms: Net 30

1 1/2 % interest per month added for overdue accounts

VERMONT JUDICIAL BUREAU
P.O. BOX 607
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(802) 295-8869

ASH

SUBPOENA

To any Law Enforcement Officer:

You are hereby commanded to serve on: John Ward, City Manager, Municipal Building, Newport, VT.
this Subpoena requiring him/her/them to appear at the Vermont Judicial Bureau

on: December 21 2012 9:00 AM

to testify in the Judicial Bureau hearing of:

Newport, City of vs. Peel, Diane

Complaint No. 63073

Nausem McDowell December 6, 2012

To the Witness: PLEASE BRING THIS COPY TO THE HEARING.

RETURN OF SERVICE

On 12-11-12 (Date of Service) I served this Subpoena upon John Ward (City Manager) (Name)

by: in hand service (Person Serving)

at Newport Vermont (City/Town), Orleans (County)

by delivering a copy of this Subpoena.

[Signature] 422 Deputy Sheriff
Signature Title

Requested by: _____

Original: Return to VJB. Pink: Witness Copy Yellow: Officer/Server

VERMONT JUDICIAL BUREAU
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(802) 295-8869

SUBPOENA

To any Law Enforcement Officer:

You are hereby commanded to serve on: John Ward, City Manager, Municipal Building, Newport, VT.
This Subpoena requiring him her/them to appear at the Vermont Judicial Bureau

on: December 21 2012 9:00 AM

to testify in the Judicial Bureau hearing of:

Newport, City of vs. Peel, Diane

Complaint No. 63073

Deuse M McDowell December 6, 2012

To the Witness: PLEASE BRING THIS COPY TO THE HEARING.

RETURN OF SERVICE

On 12-11-12 (Date of Service) I served this Subpoena upon
City of Newport John Ward (City Manager) (Name)

by: in hand service (Person Serving)

at: Newport Vermont (City/Town), Orleans (County)

delivering a copy of this Subpoena.

Adrian J. [Signature] #422 Deputy Sheriff
Signature Title

Requested by: _____

Original: Return to VJB Pink: Witness Copy Yellow: Officer/Server

VERMONT JUDICIAL BUREAU
P.O. BOX 607
WHITE RIVER JUNCTION, VERMONT 05001
(802) 295-8869

SUBPOENA

To any Law Enforcement Officer:

You are hereby commanded to serve on: Debi Mead, merchant, 153 Main St, Newport, VT, Municipal Building, Newport, VT.
this Subpoena requiring him/her them to appear at the Vermont Judicial Bureau
on: December 21, 2012 9:00 AM

to testify in the Judicial Bureau hearing of:

Newport, City of vs. Peel, Diane

Complaint No. 63073

Debra M. McDowell December 6, 2012

To the Witness: PLEASE BRING THIS COPY TO THE HEARING.

RETURN OF SERVICE

On 12-11-12 (Date of Service) I served this Subpoena upon
12-11-12 I/H Debi Mead (Name)

by: in hand service (Person Serving)

at Newport Vermont (City/Town); Orleans (County)

by delivering a copy of this Subpoena.

[Signature] 422 Deputy Sheriff
Signature Title

Requested by: _____

Original: Return to VJB Pink: Witness Copy Yellow: Officer/Server

Conversation started April 16



9:22pm

Paul Monette

Hello,

I have a question about your 99% group. Were members of your group responsible for all the graffiti on the Main Street sidewalk from the bank up to the library? It certainly seemed that way from the statements, etc.

If members were responsible I certainly do not see it helping your cause and certainly turned off a lot of folks including city council members.

Paul Monette

Orleans County Sheriff's Department

PO Box 355
5578 US Route 5
Newport, VT 05855-0355
Phone # 802-334-3333

Sales Receipt

Date	Sale No.
12/10/2012	3225

Sold To
Diane Peel

Check No.	Payment Method
	Cash

Description	Amount
Deposit for service of Subpoenas	120.00
Thank you for your business.	Total \$120.00

VERMONT JUDICIAL BUREAU
P.O. BOX 607
WHITE RIVER JUNCTION, VERMONT 05001
(802) 295-8869

SUBPOENA

To any Law Enforcement Officer:

You are hereby commanded to serve on: Debi Mead, merchant, 153 Main St,
Newport, VT.

This Subpoena requiring him/her/them to appear at the Vermont Judicial Bureau

on: December 21 2012 900 AM

to testify in the Judicial Bureau hearing of:

Newport, City of vs. Peel, Diane.

Complaint No. 63073

Eruse A McLowell December 6, 2012

To the Witness: PLEASE BRING THIS COPY TO THE HEARING.

RETURN OF SERVICE

On 12-11-12 (Date of Service) I served this Subpoena upon

Debi Mead (Name)

by: in hand service (Person Serving)

at Newport Vermont (City/Town), Orleans (County)

by delivering a copy of this Subpoena.

Signature

Title

Requested by: _____

Original: Return to VJB

Pink: Witness Copy

Yellow: Officer/Server

VERMONT MUNICIPAL COMPLAINT

Form #430 Rev. 9/07 SML

63073

Plaintiff Municipality (please print)

Newport PD

Municipal No.

1015

License State Driver License #

Defendant's Last or Organization Name

Fee

Diore

6

Mailing Address: Street

18 Green Place

Home Phone

City

Newport

State

VT

Zip

05855

Business Phone

Date of Birth

11-02-54

M

F

Corp/organization

Soc. Sec. No.

Violation Date

08/01/12

Time

1515

Municipality

Newport

Highway

Main St. 2nd Ave

Place or Landmark

side walk Newport

Defendant did then and there commit the following acts:

Disorderly Conduct

writing with chalk on sidewalks

In violation of Municipal Ordinance:

Disorderly Conduct # 95

Violation Code

VO

PENALTIES

If you plead DENIED and the State/Municipality proves the violation, the penalty must be within the penalty range. Commonly, the waiver amount plus \$30.00 in court costs are assessed.

Full Penalty \$ 50.00

ORDER to CEASE requested under 24 VSA 1974a(c) (if checked)

If you plead ADMITTED or NO CONTEST, you may pay the "waiver amount" instead of appearing in court.

WAIVER AMOUNT \$ 50.00

Delivered To (Det., Reg. Agent, or Corp. Officer)

Date Served

08-15-12

In Hand

U.S. Mail

Officer No.

11884

Officer Name (printed)

Kyle Lanzetta

Officer Signature

Dept. No.

1015

Department Name

Newport PD

Rel. crim. charge

Parent or Guardian Last Name

Street Address

First Name

City

State

Zip Code

Service Member's Civil Relief Act Affidavit: Under oath, I state Defendant is NOT on active duty in the U.S. armed forces because:

Defendant said he/she is not on active duty in the U.S. armed forces.

Defendant is under 17 years of age.

Other:

Officer Signature:

State of Vermont, County:

Subscribed and sworn before me, Notary:

Date: 8/15/12

OFFICER'S COPY

Narrative:

On the above date and time this Officer was on foot patrol on Main St. area. While on the south side of Main I observed numerous writings on the sidewalk, with chalk. About that time Debi Mead, a merchant on Main complained about the graffiti.

Upon investigation it was found that Jack Rogers and Tom Farrow were the artist of the graffiti.

This Officer attempted to locate Rogers and at this time do not know where he lives.

Both Farrow and Rogers will be receiving municipal tickets for DC.

While on foot beat on 08/15/12 I observed Jack Rogers going into the library. I followed him in and asked him where he was living so I could give him a TC for the above incident. He gave me the information and he got his TC. I advised him that I was going to give Tom a TC also. He advised that he would tell him.

A short time later Jack arrived at the office with Tom and a Diane Peel. Diane stated that she was there also and wanted her TC also.

All three were given Municipal TC's, for DC.

08/30/2012
15:36

Newport City Police Department
LAW Incident Table:

2220
Page: 1

Incident Number: 12NP01561

Nature: Vandalism Partition: 1015
Addr= MAIN ST Area: 1015 NEWPORT CITY
City: Newport ST: VT Zip: 05855 Contact:
Complainant& 525454
Lst: Mead Fst: Debi Mid: D
DOB: 07/20/1950 SSN: - - Adr= 1808 HUDSON RD
Rac: W Sx: F Tel: (802)723-6930 Cty: Charleston ST: VT Zip: 05872

Offense Codes: 1414 Reported: 1414 Observed: 1414
Circumstances: LT13

Rspndg Officers: Lancaster, Royc Wells, Richard
Rspnsbl Officer: Lancaster, Royc Agency: 1015 CAD Call ID: 5015416
Received By: Miller, Eric Last RadLog: 16:08:00 08/01/2012 CMPLT
How Received: T Telephone Clearance: RFA Ready for Approval
When Reported: 15:26:50 08/01/2012 Disposition: COM Disp Date: 08/15/2012
Occurrd between: 15:26:50 08/01/2012 Judicial Sts:
and: 15:26:50 08/01/2012 Supervisor Apprl:

MO:
Narrative: (See below)

=====

INVOLVEMENTS:

Type	Record #	Date	Description	Relationship
NM	100322	08/01/2012	Farrow, Thomas E	Offender
NM	108100	08/01/2012	Rogers, Jack A	Offender
NM	220645	08/01/2012	Peel, Diane E	Offender
NM	525454	08/01/2012	Mead, Debi D	*Complainant
CA	5015416	08/01/2012	15:26 08/01/2012 Vandalism	*Initiating Call

LAW Incident Offenses Detail:
Offense Codes

Seq Code	Amount
1 1414 VANDALISM - MISC.	0.00

LAW Incident Circumstances:
Contributing Circumstances

Seq Code	Comments
1 LT13 Highway/Road/Alley	

LAW Incident Responders Detail
Responding Officers

Seq Name	Unit
1 Lancaster, Royc	M1382
2 Wells, Richard	M1386

VERMONT JUDICIAL BUREAU
P.O. BOX 607
WHITE RIVER JUNCTION, VERMONT 05001
(802) 295-8869

NOTICE OF HEARING

Newport, City of vs. Peel, Diane

Complaint No. 63073

Diane Peel
[REDACTED]

Newport VT 05855

Issued by: Lancaster, Royce

This is to notify you to appear for a hearing on the Municipal Ordinance Complaint named above at the following time and location:

Friday December 21, 2012 at 09:00 AM
Orleans District Court
217 Main Street
Newport, VT 05855

You must arrive on time. You should bring with you anyone who you want to testify on your behalf and any other information you think would be helpful.

If you need a subpoena to compel the appearance of a witness or production of documents, call the bureau for a subpoena. You will have to arrange service and pay the cost of serving the subpoena.

The hearing procedure is designed to let people represent themselves. Of course, you may bring an attorney if you wish. If you have specific questions or need any further information, please call the Vermont Judicial Bureau at the number listed above.

If you decide to change your plea, fill out the section below and send it with check or money order made payable to Vermont Judicial Bureau. DO NOT SEND CASH BY MAIL.

.....
VERMONT JUDICIAL BUREAU
P.O. BOX 607
WHITE RIVER JCT., VT 05001

Municipal Ordinance Complaint # 63073

Penalty Amount: \$50.00

Total Amount Due: \$50.00

I do not contest the allegations contained in the ticket and I enclose my penalty in a check or money order in U.S. funds made payable to VERMONT JUDICIAL BUREAU. (This plea is inadmissible in any civil or criminal proceeding.)

Date: _____

Signature of Defendant: _____

Ordinances of the City of Newport

An Ordinance Pertaining to Disorderly Conduct

Be it ordained by the City Council of the City of Newport,
Vermont as follows:

Section 95 enacted by the City Council on the twelfth day of April 1971
pertaining to disorderly conduct be hereby amended to read as follows:

No person shall:

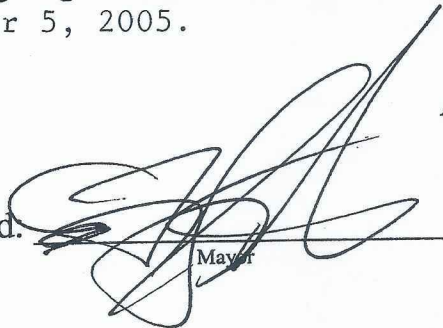
(a) disturb or break the peace by begging, behaving in a disorderly manner or using indecent, profane or insulting language or making indecent gestures in or on a public street, or sidewalk or in or about a public place of business, restaurant, store, hotel, or other public places to the annoyance or disturbance of another person; or

(b) obstruct vehicular traffic, pedestrian traffic, or the free entrance or egress to or from any public or private property.

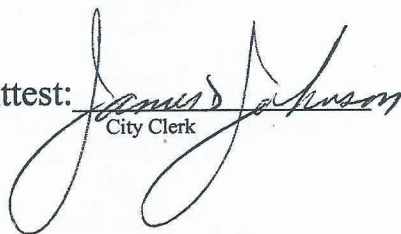
A violation of a provision of this Ordinance shall constitute a civil offense pursuant to the provisions of 24 VSA Section 1974a and Section 1977 et seq. A civil penalty of not more than \$500.00 may be imposed for a violation of this civil ordinance. The waiver fee of \$50.00 shall be imposed for a first offense. The waiver fee for a second offense will be \$75.00. All subsequent offenses will carry a waiver fee of \$100.00. All waiver fines shall be to the use of the City of Newport.

The foregoing amended ordinance was passed by the City Council on
December 5, 2005.

Approved.


Mayor

Attest:


City Clerk