

MESA COUNTY COURT, MESA COUNTY, COLORADO

Case No. 12 T 2444

ORIGINAL FILED IN

JUL 22 2015

COMBINED COURT
BY LITIGANT

VERIFIED MOTION TO DISMISS THE C.R.S. 42-2-138, DRIVING WHILE UNDER SUSPENSION CHARGE; AND TO FIND THAT C.R.S. 42-2-127.5 IS UNCONSTITUTIONAL BOTH AS WRITTEN AND AS APPLIED TO THE FACTS OF THIS CASE.

In Re: Citation No. G 136218

People of the State of Colorado,

and

David E. Wilkenson, Defendant

COMES NOW, the Defendant, DAVID E. WILKENSON, pro se, pursuant to C.R.Civ.P. Rule 12, C.R.Civ.P. 61, and the inherent equity powers of the Court, and requests the Court to dismiss the violation of C.R.S. 42-2-138 portion this Citation No. G 136218 on grounds that it constitutes an unconstitutional application of the said statute to the specific facts of this case. Defendant further requests the court to find that C.R.S. 42-2-127.5 is unconstitutional both as written and as applied to the facts of this case.

Defendant specifically requests the extra latitude he is entitled to by the intent and spirit of C.R.Civ.P. Rule 61 (“The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties”) and CAR Rule 35(e) (“The appellate court shall disregard any error or defect not affecting the substantial rights of the parties”), *Haines v. Kerner*, 404 US 519, 30 L Ed 2d 652 (1972), *Puckett v. Cox*, 456 F2d 233, and *Picking v. Pennsylvania Railway*, 151 F 2d 240, etc. in all matter related to form. The court should construe his pleadings without regard to technicalities.

RELEVANT FACTS:

1. Defendant does not contest the speeding in a school zone charge, which is also part of Citation No. G 136218. Defendant has requested to have the two charges separated so he can plead guilty to the speeding charge, but the District Attorney’s office has refused.

