

**KENNETH VERCAMMEN
& ASSOCIATES, PC**

2053 Woodbridge Ave.

Edison, NJ 08817

732-572-0500

Attorney for Defendant

THE STATE OF NEW JERSEY

v.

d1

Defendant.

Municipal Court of x1
County of Middlesex

SUMMONS NO.

Criminal Action
NOTICE OF MOTION TO DISMISS
FOR FAILURE TO PROVIDE
DISCOVERY and COMPEL
DISCOVERY

TO: MUNICIPAL COURT ADMINISTRATOR x1

TO: PROSECUTOR x1

Please Take notice that the undersigned, attorney for above defendant, will apply to the above named court, at the x1 Municipal Court, x1, New Jersey, on _____, at 9AM or as soon thereafter as counsel may be heard for an Order

1. Dismissing the complaint against d1 for failure to provide discovery.

Please take further notice that the undersigned shall rely upon the Certification of Kenneth A. Vercammen in support of this motion.

PLEASE TAKE FURTHER NOTICE that this motion is filed with the court pursuant to Rule 1:6-2 and that unless an objection by any of the parties hereto is received at least eight (8) days prior to the return date indicated herein, or unless otherwise directed by the court, the movant shall submit the within application for decision by the court upon the papers and without the necessity of oral argument.

Dated: _____

KENNETH A. VERCAMMEN, ESQ.
Attorney for d1

CERTIFICATION OF MAILING

The undersigned hereby certifies that the original Notice of Motion, Certification and all supporting papers have been filed directly with the x1 Municipal Court

It is further certified that a copy of the Notice of Motion, Certification and all supporting papers have been served by mail to the Prosecutor c/o the Court address as required by State v Holup.

Dated:

BY: _____

KENNETH A. VERCAMMEN Esq.
Attorney for d1

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THE STATE OF NEW JERSEY

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Municipal Court of x1
County of Middlesex

SUMMONS NO.

Criminal Action
CERTIFICATION IN SUPPORT OF
MOTION TO DISMISS FOR
FAILURE TO PROVIDE DISCOVERY

I, KENNETH A. VERCAMMEN, of full age, do hereby certify the following:

1. I am an attorney at law of the State of New Jersey. I represent d1 and am fully aware of the facts and circumstances of this Motion.

2. My client is charged with _____

3. On _____ an initial request for discovery and initial letter representation was served on the Prosecutor.

4. Under the Court Rule, 7:7-7 (f) the Prosecutor is to respond to the discovery request within 10 days. A copy of the demand for discovery was also served on the Court Administrator as part of the letter of representation as a courtesy. We recognize under the Court Rules and separation of powers, the Court is not permitted to provide discovery or even assist the Prosecutor in prosecuting the case.

5. This discovery request was not complied with. We have not received discovery.

6. On _____ a second request for discovery was served.

7. This second letter requesting discovery was not complied with.

8. Under our Court Rules, law enforcement members may file criminal charges and prosecute them. However, the duty to provide discovery is with the Prosecutor only who then must comply with the Court rules which require discovery to be provided to individuals accused of a criminal offense or serious traffic offense.

9. Individuals facing charges in municipal courts have been guaranteed the right to discovery. Discovery is a matter of right in all Municipal Court cases. State v Young

242 NJ Super. 467 (App. Div. 1990); State v Ford 240 NJ Super. 44 (1990); State v Polasky 216 NJ Super. 549 (Law Div. 1986); State v Tull 234 NJ Super. 560 A. 2d 1331 (1989).

10. We request the complaint be dismissed because of the failure of the State to provide discovery. In the alternative we demand counsel fees paid to reimburse the accused based on having to file a motion to require the state to comply with discovery, under State v Young 242 NJ Super. 467 (App. Div. 1990); State v Ford 240 NJ Super. 44 (1990); State v Polasky 216 NJ Super. 549 (Law Div. 1986); State v Tull 234 NJ Super. 560 A. 2d 1331 (1989).

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated:

Kenneth A. Vercammen

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& ASSOCIATES, PC**

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Attorney for Defendant

THE STATE OF NEW JERSEY

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Defendant.

Municipal Court of x1
County of Middlesex

SUMMONS NO.

Criminal Action
ORDER OF DISMISSAL WITH
PREJUDICE and COMPEL
DISCOVERY

This matter having been opened to the Court upon motion of Kenneth A. Vercammen, Esq. , attorney for defendant for an Order Dismissing the complaint against d1 for failure to provide discovery.

and the Court having considered the Certification submitted, documents attached in support of the Motion, and the argument of counsel, if any, and for good cause shown,

it is on this ____ day of _____

ORDERED that the complaint pending against d1 is dismissed with prejudice, and it is further Ordered complete discovery must be provided by the Prosecutor and Police within 10 days,

and counsel fees must be paid by the state to the Law Office of Kenneth Vercammen in amount of ____ within 10 days due to failure to comply with court rules

and it is

FURTHER ORDERED that a copy of this order be served upon all Parties within ten (10) days.

J.M.C.