

STATE OF MAINE
CUMBERLAND, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CUMCD-CR-17-6679

STATE OF MAINE]
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]
]
 Plaintiff,]
]
 v.]
]
 MJICHAEL A. DOYLE,]
]
 Defendant.]
 _____]

OPPOSITION TO SCARBOROUGH’S
MOTION FOR RECONSIDERATION
OF DISMISSAL AND DEFNDANT’S
MOTION TO STRIKE ALL CONTENT
BASED CENSORSHIP IN ALL
SCARBOROUGH’S RULES ON
PUBLIC COMMENT AT TOWN
MEETINGS

1. Attorney Franco on his firm’s website has 34 years experience practicing law. He’s also listed as a New England Super Lawyer for 2007-2008, and 2010-2017. He’s an expert attorney and as such he and his firm were aware of this action since April 9, 2018. Tamara Getchell, the spokeswoman for the Cumberland County District Attorney’s Office stated, “Her office was not required to notify the Town’s attorney.” With the entire work force of Drummond Woodsum at his disposal, Franco failed to make any enquires until after the dismissal was rendered. ADA Barry was present at

the hearing and the arraignment, and Franco was not. Additionally, on the Motion itself, at the bottom of the last page in hand writing it states:

4/10/18 State does not contest but victim objects. Will Barry 3929

Franco should have filed his 'Party-in-Interest' at that point and before the hearing date of 4-19-18. Franco states he was aware of Defendant's motion on 4-9-18, yet fails to act prior to the hearing date. Franco should not be rewarded with Reconsideration after waiting until 4-25-18 to file the motion in dispute, or six days after the hearing and 15 days after Will Barry ADA notes his party's objection.

Finally, this is a criminal case, and Franco has no standing. ADA Barry chose not to contest Defendant's motion to dismiss with prejudice and the Court granted the motion. As a courtesy ADA Barry noted the "victim objects". That objection has zero bearing on this court's ruling and Franco should stop wasting this Court's time. That should be the end of this matter before this Court.

2. "This case is similar to the *Lozman v. Riviera Beach, FL* Docket No. 17-21 recently heard in SCOTUS. Chief Justice Roberts found the video of Lozman's arrest "pretty chilling". In one minute and forty-three seconds this Defendant suffered the same treatment in Scarborough, Maine. Content based censorship of Political Free Speech as shown in the Franco filing referring to his "exhibit A" of the Council Rules to Section 202.3 of the Scarborough Town Council Rules and Procedures, has been struck down repeatedly in a number of SCOTUS rulings going back to 1927 in

Whitney v. California, 274 U.S. 357, 375 (1927) (Brandeis, J., concurring). In that decision Justice Brandeis wrote:

“Unpleasant comments are an unavoidable part (perhaps an essential part) of the hurly burly of living in a free and open democracy. The freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth.”

The entire Section 202.3a and 202.3b violate the First Amendment of the United States Constitution and all other SCOTUS rulings similar to this action to include *Reed v. Gilbert AZ*. As such Defendant Moves this Court Rule that Scarborough can not enforce any content based censorship during public comment at any Scarborough Town government meeting where any member of the public is allowed to address the body. If this motion by Franco is not denied immediately, it should be continued until SCOTUS renders a decision on the Lozman case.

3. Franco plays fast and loose with the truth. Defendant as the video recording clearly shows, DID NOT refuse to sit down, returned to his seat, and was arrested while sitting down. The video shows that the Defendant was ordered to stand up and put his hands behind his back and be handcuffed. He complied with this order. The only actor being “loud, obnoxious, and disruptive”, was Councilor Donovan, who was screaming at Defendant in violation of Council Rule 129.0. Franco’s creative writing

goes on to say Defendant “insisted” on being arrested, all of this fiction on Page 2 of the Franco Motion, is disputed totally by viewing the video recording.

4. By Franco’s own account he had TEN DAYS to file any motions he wanted to file, yet he comes to the court after the fact to ask for Reconsideration. Franco should have stayed on top of this case from November 15, 2017 when Defendant was falsely arrested and made himself aware that the Motion to Dismiss was filed with the Court and William Barry ADA. Franco’s mismanagement of his own schedule should not be rewarded with additional time to make up more unsubstantiated prose totally disputed by the actual video of what took place at the meeting. The Court may want to view the video on a thumb drive supplied to ADA Barry during discovery.

WHEREFORE, Defendant Moves this Court to strike down all Content Based Censorship in all of Scarborough’s Rules concerning comments at all public meetings. That this Court Deny the Franco Motion as being untimely, and to Rule that this decision of Dismissal with Prejudice, comes under the purview of *Res Judicata*.

Respectfully submitted,

MICHAEL DOYLE, Defendant
3 Shady Lane
Falmouth, Maine 04105

April 30, 2018

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PROOF OF SERVICE

I hereby affirm under oath and under the penalty of perjury according to the laws of Maine that this same day of filing, I've mailed a copy of this document to Mark Franco, Esq., via USPS first class mail.

MICHAEL DOYLE, Defendant
3 Shady Lane
Falmouth, Maine 04105

April 30, 2018