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5 **BEATTY JUSTICE COURT**

6 State of Nevada, ) Case No.: 10 TR 00038  
7 Plaintiff, ) MOTION TO SUPPRESS  
8 vs. )  
9 Charles Eugene Dornsife, )  
10 Defendant )

11 **MOTION TO SUPPRESS**

12 TO THE HONORABLE JUDGE OF SAID COURT:

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14 Defendant files this Motion to Suppress pursuant to the U.S. Constitution, Article 1§8 (1)  
15 national defense; (3) commerce; and (7) post roads (transportation regulation), Constitutional powers  
16 delegated to Congress for the General Welfare of the Nation; Powers not enumerated to States in the  
17 10th Amendment; Congress' Commerce Clause authority in The Highway Safety Act of 1966 (P.L. 89-  
18 564, 80 Stat. 731) that over time displaced Nevada's legacy powers in this field with State police  
19 powers that *under the color of federal law* shall be in substantial conformance within the bounds of the  
20 US Constitution and Congress' intent et al; Substantive and Procedural Due Process, Equal Protection,  
21 Supremacy, Commerce, Confrontation Clause(s), Void for Vagueness, Habeas Corpus, 4th, 5th, 6th, 9th  
22 and 14th Amendments; Judicial Notice and Rules of Evidence in NRS 48.015, NRS 47.130, NRS  
23 47.140 and NRS 484.781 et al as follows;  
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I.

**NO PROBABLE CAUSE**

Defendant was arrested absent probable cause to arrest. This case turns on Matters of Law because the Defendant's arrest was the fruit of illegal Nevada Revised Statute Clause(s) and federal R2-1 (Speed Limit Sign) traffic control device use, and repealed, conflicting or displaced state police powers therein enacted under the color of federal law in violation of the United States Constitution, Substantive and Procedural Due Process, Equal Protection, Supremacy, Commerce, Confrontation Clause(s), Void for Vagueness doctrine, Habeas Corpus, 4th, 5th, 6th, 9th and 14th Amendments, and NRS 484.781 et al; and on Matters of Fact documented herein including the self evident fruit of illegal acts under the color of federal law by state personnel acting in their professional capacity to deny the Rights of the Defendant et al, a federal crime. Therefore results of the arrest should be suppressed.

II.

**GROUNDS HIERARCHY**

1. Powers of Congress - US Constitution Article 1 Section 8 (1) national defense; (3) commerce; (7) ... post roads. (*transportation regulation*); powers not enumerated to the States in the 10th Amendment;

2. Congress' encompassed this entire field in The Highway Safety Act of 1966 (P.L. 89-564, 80 Stat. 731) (1966) by invoking its Article 1 Commerce Clause powers to "regulate the use of the channels of interstate commerce" and "to regulate and protect the instrumentalities of interstate commerce," as articulated in *United States v. Lopez*, 514 U.S. 549, 558 (1995).

The Highway Safety Act of 1966 incorporated into federal law the progeny of the 1926, Uniform Vehicle Code (UVC) which in part required motorists to drive at speeds "reasonable and prudent" (Basic Speed Law UVC § 11-801); and, the 1927 the American Association of State Highway Officials published the "Manual and Specifications for the Manufacture, Display, and Erection of U.S. Standard Road Markers and Signs (for rural roads)" which evolved into the Manual on Uniform Traffic Control Devices (MUTCD), 23 U.S.C. 109(d) and 402(a) et al.

1 Congress delegated the Act's oversight to its newly created cabinet level Secretary of  
2 Transportation and the U.S. Department of Transportation (USDOT) (former U.S. Bureau of Public  
3 Roads); powers governed in part by 5 U.S.C. § 706 to achieve Congress' "roadway safety" mandates  
4 via fact-based uniform laws, practices, devices, expectations and the exercise of police powers thereof.

5 Under the color of federal law all acts by a federal agency or the exercise of police powers by an  
6 inferior authority shall be in substantial conformance with the following precepts and the U.S.  
7 Constitution et al;

8 **5 U.S.C. § 706. Scope of review**

9 To the extent necessary to decision and when presented, the reviewing  
10 court shall decide all relevant questions of law, interpret constitutional  
11 and statutory provisions, and determine the meaning or applicability of  
12 the terms of an agency action. The reviewing court shall:

13 (1) compel agency action unlawfully withheld or unreasonably delayed;  
14 and

15 (2) hold unlawful and set aside agency action, findings, and conclusions  
16 found to be:

17 (A) arbitrary, capricious, an abuse of discretion, or otherwise not in  
18 accordance with law;

19 (B) contrary to constitutional right, power, privilege, or immunity;

20 (C) in excess of statutory jurisdiction, authority, or limitations, or short  
21 of statutory right;

22 (D) without observance of procedure required by law;

23 (E) unsupported by substantial evidence in a case subject to sections  
24 556 and 557 of this title or otherwise reviewed on the record of an  
25 agency hearing provided by statute; or

26 (F) unwarranted by the facts to the extent that the facts are subject to  
27 trial de novo by the reviewing court.

28 In making the foregoing determinations, the court shall review the whole  
record or those parts of it cited by a party, and due account shall be taken  
of the rule of prejudicial error.

3. Nevada adopts NRS 484.781 (1969) recognizing the supremacy of these federal conditions  
precedent and their progeny in perpetuity.

**NRS 484.781 Adoption of manual and specifications for devices for  
control of traffic by department of transportation.**

1. The department of transportation shall adopt a manual and  
specifications for a uniform system of traffic-control devices consistent  
with the provisions of this chapter for use upon highways within this

1 state. The uniform system must correlate with and so far as possible  
2 conform to the system then current and approved by the American  
3 Association of State Highway Officials and the National Joint  
4 Committee on Uniform Traffic Control Devices.

5 2. All devices used by local authorities or by the department of  
6 transportation shall conform with the manual and specifications adopted  
7 by the department.

8 (Added to NRS by 1969, 1488; A 1979, 1814)

9 5. Further, Nevada in exchange for federal highway funds, US 23 CFR 630.112(a), certifies  
10 compliance with these governing laws on all facilities open to public travel therein, regardless of  
11 jurisdiction type or classification; accepting the benefit of federal funds bars state's rights claims.  
12 Pennhurst v. Halderman, 451 U.S. 1, 17 (1981); Federal Power Commission v. Colorado Interstate Gas,  
13 348 U.S. 492 (1955)

14 6. US Ninth Circuit in NEVADA v. SKINNER 884 F.2d 445(1989) upholds federal supremacy in  
15 this field when Nevada challenged Congress' Commerce Clause authority over Nevada's traffic laws  
16 vis-à-vis its use of Speed Limit Signs (R2-1 federal regulatory device).

17 *"Nevada has pegged its attack on the national speed limit on the wobbly  
18 legs of the coercion test. While we strongly doubt the vitality of that  
19 theory, we conclude that, alive or dead, it is of no consequence here.  
20 Congress could have mandated a national speed limit under its  
21 Commerce power: that it chose to enact a lesser restraint, by cutting off  
22 highway funds to states unwilling to adopt the designated limit, does not  
23 render its actions unconstitutional."*

24 The National Maximum Speed Limit (NMSL) was subsequently repealed, but the domain of  
25 Federal Supremacy in this Field and the Constitutional Rights of the Defendant were not;

26 7. The US Supreme Court unambiguously defined the scope of "The Supremacy Clause".  
27 FIDELITY FEDERAL SAV. & LOAN ASSN. V. DE LA CUESTA, 458 U.S. 141 (1982)

28 *"Pre-emption may be either [458 U.S. 141, 153] express or implied, and  
is compelled whether Congress' command is explicitly stated in the  
statute's language or implicitly contained in its structure and purpose."  
... "A pre-emptive regulation's force does not depend on express  
congressional authorization to displace state law"*

1 8. 1995, Nevada Senate Bill 133<sup>1</sup> (SB 133) context was ostensibly to amend NRS 484.361, 484.362  
2 and 484.373 et al to decriminalize otherwise safe driving and improve traffic flow within the scope of  
3 the NMSL. The Defendant is a nationally recognized expert in this field<sup>2</sup> and witness in Nevada courts  
4 on speed limits etc (Washoe; Douglas; Clark), and has first hand knowledge of all events<sup>3</sup> herein and  
5 personally worked with Legislative Council on behalf of Senator Washington in regards SB 133.

6 SB 133 intent as amended in Committee, if Congress repealed the NMSL, Nevada was to return  
7 to NRS 484.361(1)(2), which mirrored federal law (Basic Speed Rule, UVC § 11-801); Nevada's law  
8 prior to Congress' energy emergency in 1974 and its NMSL.

9 **Basic Speed Rule:** No person shall drive a vehicle greater than is  
10 reasonable and prudent under the conditions and  
11 having regard to the actual and potential hazards  
then existing. UVC § 11-801

12 **NRS 484.361 Basic rule.** It is unlawful for any person to drive or  
13 operate a vehicle of any kind or character at:

- 14 1. A rate of speed greater than is reasonable or proper, having due regard  
15 for the traffic, surface and width of the highway, the weather and other  
16 highway conditions.  
17 2. Such a rate of speed as to endanger the life, limb or property of any  
18 person.

19 9. The extant federal speed limit sign conditional use authority in 1995 was governed by 1988  
20 MUTCD 2b-10, which had an "after" precondition that required a factual foundation for the number  
21 posted and there were no exceptions, it did not say what to post, only that if speed limit is found to be  
22 warranted it's to be based on a conforming engineering study, as adopted in 23 U.S.C. 655.655, Subpart  
23 F; 1988 MUTCD 2b-10 and Nevada's NRS § 484.369(1) was in substantial conformance.

24 **1988 MUTCD: 2b-10, R2-1; Speed Limit Sign**

25 The Speed Limit sign shall display the limit established by law, or by  
26 regulation, after an engineering and traffic investigation has been made  
in accordance with established traffic engineering practices.

27 1 <http://www.leg.state.nv.us/68th/95bills/SB133.TXT>

28 2 Executive Director, Best Highway Safety Practices Institute 501(c)3 [www.bhspi.org](http://www.bhspi.org)

3 <http://www.leg.state.nv.us/68th/minutes/STR504.txt>

**NRS 484.369 Speed zones and signs. (1995)**

1 1. The Department of Transportation may prescribe speed zones, and  
2 install appropriate speed signs controlling vehicular traffic on the state  
3 highway system as established in chapter 408 of NRS through hazardous  
4 areas, after necessary studies have been made to determine the need  
5 therefor, and to eliminate speed zones and remove the signs therefrom  
6 whenever the need therefor ceases to exist.

7 10. NRS § 484.361(3) “*speed greater than that posted*”, NRS § 484.361(4) “*In any event, a rate of*  
8 *speed greater than 75 miles per hour*” invented numeric, absolute prohibitive clause and the federal  
9 UVC § 11-802<sup>45</sup> “statutory” as promulgated were proscribed arbitrary and capricious safety and  
10 probable cause thresholds on their face, whose authority was de facto repealed or displaced per the  
11 MUTCD<sup>6</sup> et al 2 years hence in 1990<sup>7</sup> and 1997<sup>8</sup> respectfully by Congress and the U.S. Constitutions’  
12 protections from arbitrary and capricious police powers or standards.

13 **NRS 484.361 Basic rule.** It is unlawful for any person to drive or  
14 operate a vehicle of any kind or character at:

15 3. A rate of speed greater than that posted by a public authority for the  
16 particular portion of highway being traversed.

17 4. In any event, a rate of speed greater than 75 miles per hour.

18 (Added to NRS by 1969, 1486; A 1975, 754; 1987, 656; 1995, 2441,  
19 2442)

20 The safety value posted on a federal device must be fact based, as well, so must its enforcement  
21 probable-cause threshold be narrowly tailored to achieve a legitimate government objective; probable  
22 cause founded in invented numbers or enforcement thresholds are not legitimate justification for search  
23 and seizure under the 4th Amendment. Aside from the fact the safety value to post and enforce is a  
24 scientific field per national recognized engineering practices, which were adopted by reference in  
25 MUTCD: Section 1A.13 et al, which must also be cross-examinable by a defendant as to their  
26 foundations and application in a particular instance.

27 4 UVC § 11-802 Statutory Speed Limits

28 5 <http://www.nhtsa.dot.gov/people/injury/enforce/speedlaws501/uvcspeep.pdf>

6 23 U.S.C. 655.603(b) (d)

7 1988 MUTCD (effective 1990)

8 1995 Repeal NMSL (effective 1997)

1 11. If Nevada had conducted a complying study to determine that speed limits are warranted on this  
2 particular segment of roadway there is no legal foundation. Because, despite the billions spent over the  
3 past decades on enforcement and PR to influence public opinion on “Speeding and Safety”, since the  
4 USDOT was founded in 1966 they haven’t conducted a single vetted root cause accident analysis on  
5 these classifications of roadways to make such a determination from, or as a foundation for such a  
6 standard. Nor is there any vetted evidence WHATSOEVER those rural highways with posted limits are  
7 safer than those without them<sup>910</sup>, whereas those without speed limits have been consistently  
8 documented<sup>8</sup> to be among the safest.

9 12. Nonetheless, when a posted limit is set to the recommended<sup>11</sup> federal 85th percentile speed, the  
10 85th percentile speed is the safest speed (lowest risk) on the relative risk curve, thus speeds in excess up  
11 to 100 percent of the measured traffic speeds can also still be within the range of safe for conditions  
12 speeds. Thus a violation of the number on the sign does not in itself constitute an unsafe act.

13 The 24-hour public’s consensus safest speeds (85th percentile) on segments US 395 have been  
14 reported by NDOT to be up to 89.6 (Coaldale), and 87.4 (Goldfield) on page 6 of their own annual  
15 report<sup>12</sup>. Therefore, separately from all other arguments, the 70 mph signs the Defendant is charged  
16 with violating lack legal foundation because NDOT has constructive knowledge they are unfounded.

17 In all instances herein if the limit had been based on a complying study, and if the then federal  
18 prima facie standard had been written into the language of NRS § 484.361(3) et al lacks foundation  
19 because it turns on either an invented numeric threshold (this instance) or a numeric below the  
20 maximum safe speed in itself vis-à-vis nationally recognized engineering tenets per NDOT’s own data,  
21 not on an unsafe act;

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25 9 ITE District 6 - Speed Limits - pg 18, WSDOT; pg 27, Montana: Summary of the effects of no  
daytime speed limits [http://www.bhspi.org/BPpapers/files/BHSPI\\_ITE6\\_Denver090715f.pdf](http://www.bhspi.org/BPpapers/files/BHSPI_ITE6_Denver090715f.pdf)

26 10 Kansas State University Study <http://www.sciencedaily.com/releases/2009/04/090410123455.htm>

27 11 ITE District 6 - Speed Limits - When and why the 85th percentile - pg 16, Federal Highway  
Administration FHWA/RD-85/096 Technical Summary, "Synthesis of Speed Zoning Practice"  
28 [http://www.bhspi.org/BPpapers/files/BHSPI\\_ITE6\\_Denver090715f.pdf](http://www.bhspi.org/BPpapers/files/BHSPI_ITE6_Denver090715f.pdf)

[http://www.nevadadot.com/reports\\_pubs/traffic\\_report/2000/pdfs/Speed2000.pdf](http://www.nevadadot.com/reports_pubs/traffic_report/2000/pdfs/Speed2000.pdf)

1 13. SB 133 was passed by the Senate and then by the House transportation committee and they sent  
2 it to the Assembly with a do pass; per parliamentary rules the bill was read two times on Assembly  
3 floor late in session, which was to end in 3 days.

4 14. National press announces the passage by Congress of a bill that will repeal its invented value  
5 National Maximum Speed Limit (NMSL) NRS 484.362; and its not to exceed capricious fuel saving  
6 enforcement threshold clause as expressed in 484.361(3) ... "speed greater than". National Highway  
7 System Designation Act of 1995 (Pub.L. 104-59, 109 Stat.568); signed into law by President Bill  
8 Clinton on November 28, 1995.

9 Thereby, Congress returned the setting of speed limits to the states, per the conditions precedent  
10 of extant law; the US Constitution, Congress' intent, US 23 and the 1988 MUTCD, UVC et al with no  
11 exceptions, thus the conflicting clause(s) in the UVC were also de facto repealed (UVC § 11-802 et al),  
12 including capricious invented statutory limits, presumptive, per se, or probable cause thresholds and  
13 civil adjudication standards.

14 15. Per Nevada Law, parliamentary rules may be suspended during the last few days of a session,  
15 but the Supremacy Clause and US Constitutional conditions precedent for the exercise of police powers  
16 by Nevada under the color of federal law cannot.

17 16. When the parliamentary rules were suspended, a few legislators at the behest of the NHP  
18 legislative liaison (Major Daniel Hammack) rewrote SB 133<sup>13</sup> and inserted their own version of the  
19 now repealed by Congress State Police Powers authority for capricious invented numeric speed limits in  
20 NRS 484.361(4)(75mph et al); and they failed to bring the displaced wording of NRS 484.361(3) into  
21 conformance with the then compliant federal recommended practice *prima facie* exception; where  
22 motorists could be found not guilty irrespective of the number posted if they establish they were driving  
23 safe for conditions.

24 Uniform: Under federal law there can be only one meaning and expectation, *prima facie* speed  
25 limits with exceptions for otherwise safe acts were the only expectation and police powers standard at  
26 that time that met these mandates in 1995; as articulated in California and Arizona law etc.

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<sup>13</sup> [http://www.leg.state.nv.us/68th/95bills/SB133\\_EN.TXT](http://www.leg.state.nv.us/68th/95bills/SB133_EN.TXT)



1 17. The legislators did not know the import or context of these last minute changes in SB 133 nor  
2 was a single hearing held as to the legal consequences of Congress' repeal, the extant controlling  
3 federal laws in this field, or its affects on other NRS statutes; including the fact that invented numerics  
4 and enforcement threshold police powers in the NRS were going to be repealed or displaced by the  
5 coming changes in the controlling federal law;

6 18. Legislature sends unvetted defective and conflicting unconstitutional Bill to Governor for his  
7 signature that on its face was, and remains, in direct conflict with extant state and federal law, and he  
8 signs it; hence, NRS 484.361(3)(4) et al were in direct conflict with NRS 484.781 which adopted  
9 federal supremacy for traffic control in 1969 and the HSA of 1966, thus per the Supremacy Clause the  
10 conflicting NRS clauses et al were void under the color of federal controlling law;

11 19. Subsequently in the instance of US 395, the Defendant also has first hand knowledge that in  
12 1995, Tom Stephens, Director of the Nevada Department of Transportation (NDOT) headed the State  
13 Speed Limit Task Force, where at a meeting at headquarters in Carson City he decreed all statewide  
14 speed limits, by roadway, with colored felt markers on a map per his personal opinion for each; absent a  
15 single supporting engineering study per the conditions precedent of extant federal law (1988 MUTCD  
16 2b-10 R2-1: Speed Limit Sign) or Nevada's conforming subordinate NRS § 484.369(1).

17 Defendant strongly objected to this illegal act and raised the issue of this noncompliance with  
18 the Director, Deputy Director, State Traffic Engineer et al, Governors' Office, the Legislature and AG  
19 then, and in many instances since, including the 2009 Legislature<sup>14</sup> et al.

20 20. These limits, and in particular said 70 mph speed limit in this instance the Defendant purportedly  
21 violated has remained illegally posted and enforced 15 years after the fact, under both federal and state  
22 law despite NDOT's constructive knowledge<sup>15</sup> they were not based on a finding of fact per our  
23 governing laws or an unsafe act under federal law. Not only is the citation the fruit of an illegal act  
24 under the color of federal law it now constitutes a federal crime per 18 U.S.C. § 241 & 242; conspiring  
25 to deny the Constitutional rights of an individual making the federal issues ripe.

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<sup>14</sup> [http://www.bhspi.org/documents/BHSPI\\_NEVLeg\\_0905\\_fedlawf.pdf](http://www.bhspi.org/documents/BHSPI_NEVLeg_0905_fedlawf.pdf)

<sup>15</sup> [http://www.nevadadot.com/reports\\_pubs/Traffic\\_Report/](http://www.nevadadot.com/reports_pubs/Traffic_Report/)

1 **18 U.S.C. § 242:** The United States Department of Justice, Criminal  
Rights Division, on their web page  
2 [http://www.usdoj.gov/crt/crim/242fin.php] describes, “DEPRIVATION  
OF RIGHTS UNDER COLOR OF LAW” as follows: “Summary:  
3 *“Section 242 of Title 18 makes it a crime for a person acting under color  
of any law to willfully deprive a person of a right or privilege protected  
4 by the Constitution or laws of the United States.*

5 *“For the purpose of Section 242, acts under “color of law” include acts  
not only done by federal, state, or local officials within their lawful  
6 authority, but also acts done beyond the bounds of that official's lawful  
authority, if the acts are done while the official is purporting to or  
7 pretending to act in the performance of his/her official duties. . . .”*

8 **18 U.S.C. § 241:** The United States Department of Justice, Criminal  
Rights Division, on their web page  
9 [http://www.usdoj.gov/crt/crim/241fin.php] describes “CONSPIRACY  
AGAINST RIGHTS” as follows:  
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11 *-51- “Summary: “Section 241 of Title 18 is the civil rights conspiracy  
statute. Section 241 makes it unlawful for two or more persons to agree  
12 together to injure, threaten, or intimidate a person in any state, territory  
or district in the free exercise or enjoyment of any right or privilege  
13 secured to him/her by the constitution or the laws of the United States,  
(or because of his/her having exercised the same). Unlike most  
14 conspiracy statutes, Section 241 does not require that one of the  
conspirators commit an overt act prior to the conspiracy becoming a  
15 crime.”*

16  
17 21. Thus the stop lacked Probable Cause for each of the following;

- 18 1. Illegal use of official federal R2-1 traffic control device by Nevada, and  
prosecution stems from the fruit of multiple illegal acts;
- 19 2. NRS 484.361(3)(4) police powers repealed, in conflict or displaced by state and  
20 federal law and lacked foundation;
- 21 3. In this instance Nevada posted a proscribed 70 mph arbitrary and capricious  
value that lacked foundation on an official federally regulated device because the  
22 State did not perform the required comprehensive engineering studies to  
determine first if a speed limit is warranted, and if so, the safety value to post and  
23 the range of safe speeds that speed in excess would constitute probable cause of  
an unsafe act;
- 24 4. Basic Speed Rule per the UVC § 11-801 (reasonable and prudent) and  
subordinate NRS 484.361(1)(2) trumps the posted limit;
- 25 5. Invented posted value, enforcement threshold and speed in excess of an invented  
26 value lack foundation;
- 27 6. Speed in itself violates no laws and absent a finding of fact, via a compliant  
comprehensive study(3) that is documented and can be cross examined,  
28 MELENDEZ-DIAZ v. MASSACHUSETTS, No. 07-591 (2009), as to veracity  
applying nationally recognized practices and standards and the officer had prior

1 knowledge of these facts, if not, the officer is incompetent to testify as to an  
2 unsafe act or probable cause;

3 7. If the posted safety value is invented, and the not to exceed enforcement  
4 threshold is invented then the probable cause is also invented and lacked  
5 foundation; and the US Supreme Court decided in Whren et al. v. United States,  
6 517 U.S. 806 (1996). that probable cause is a necessary pretext for any traffic  
7 stop.

8 8. Thus the Defendant's traffic stop for all the above lacked probable cause.

#### 9 IV.

### 10 VIOLATES EQUAL PROTECTION CLAUSE

11 22. Uniformity is implicit, and all acts shall be in substantial conformance in this field. Federal  
12 uniformity in this field includes: Appearance, application, expectation, class of crime, standard of  
13 adjudication, and fine assessment, as well as the right to travel that is BASED on the Inalienable Rights  
14 of both Liberty and Property, commerce and its instrumentalities; driver's license, vehicle, or  
15 Constitutional rights that become inclusive in a federally regulated field or within the domain of a  
16 designated instrument of travel. The standards to be applied in application, expectation and the exercise  
17 of police powers in all respects shall be substantially uniform in Nevada, Maine, Oregon, Utah, and  
18 California etc.

19 23. The presumption for speed limit violations is a federal class 3 or 4 misdemeanor but until a  
20 uniform expectation and penalty schedule is defined for the 80 thousand or so jurisdiction involved, this  
21 too is Void for Vagueness<sup>16</sup>, violates Equal Protection<sup>17</sup> and is unenforceable in this instance because  
22 absent a compliant federal standard, equal protection and substantive due process is unobtainable. It's  
23 also incontrovertible that Nevada's fees and fine schedules are unique, and not based on a national  
24 uniform standard. The following was on disparate treatment of traffic fines and fees alone:

25 *U.S. Court of Appeals for the Ninth Circuit, United States v. Trimble,*  
26 *487 F.3d 752, Ninth Circuit (2007) "We reverse - demonstrating, again,*  
27 *that our Constitutional principles protect against monetary injuries large*  
28 *and small." ... "and therefore the fees violated the equal protection*  
*principles incorporated into the Fifth Amendment"*

16 *Giaccio v. State of Pennsylvania*, 382 U.S. 399; 86 S.Ct. 518 (1966)

17 *United States v. Trimble*, 487 F.3d 752, Ninth Circuit (2007)

1 24. Sanctions against a driver's license must be in full compliance with the 1966 Act, because the  
2 US Supreme Court on four occasions has ruled a driver's license is Constitutionally a property interest  
3 right<sup>18</sup>, and since the 1966 Act it's also become a protected instrument of an inalienable right to travel.  
4 Therefore, it's subject to federal Constitutional substantive and procedural due process including equal  
5 protection, probable cause founded on a demonstrable unsafe act and beyond a reasonable doubt  
6 standard of adjudication; and it cannot be abridged or impinged with a lesser standard of preponderance  
7 of evidence or legislative fiat or for non germane acts;

8 V.

9 **VOID FOR VAGUENESS**

10 25. The 5th Amendment requires Equal Protection and when the USDOT oversight nonfeasance<sup>19</sup>  
11 allowed 80 thousand political entities in the US and its Territories to establish disparate standards of  
12 expectation, adjudication<sup>20</sup> and fees and fines<sup>21</sup> from sign to sign in a field under the color of federal  
13 law, on its face under the 5th Amendment it violates the void for vagueness<sup>22</sup> doctrine.

14  
15 *Void for Vagueness doctrine: "If a person of ordinary intelligence*  
16 *cannot determine what persons are regulated, what conduct is*  
17 *prohibited, or what punishment may be imposed under a particular law,*  
18 *then the law will be deemed unconstitutionally vague. The U.S. Supreme*  
19 *Court has said that no one may be required at peril of life, liberty, or*  
20 *property to speculate as to the meaning of a penal law. Everyone is*  
21 *entitled to know what the government commands or forbids."*

22 26. For illustrative purpose the following data was gleaned from several government websites, here  
23 are the daunting numbers and why there can only be one standard under the color of federal law.

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24 18 Bell v. Burson. (Georgia) - U.S. Supreme Court - 402 U.S. 535 (1971); Dixon v. Love.  
25 (Illinois) - U.S. Supreme Court - 431 U.S. 105 (1977); Mackey v. Montrym. (Massachusetts) - U.S.  
26 Supreme Court - 443 U.S. 1 (1979); Illinois V. Batchelder. (Illinois) - U.S. Supreme Court - 463  
27 U.S. 1112 (1983)

28 19 USDOT: illegal inclusions in the MUTCD and due process violations et al (12/20/2000)  
[http://www.hwysafety.com/mutcd\\_statutory\\_letter.htm](http://www.hwysafety.com/mutcd_statutory_letter.htm)

20 Musser v. Utah, 333 U.S. 95, 97 (1948)

21 United States v. Trimble, 487 F.3d 752, Ninth Circuit (2007)

22 Giaccio v. State of Pennsylvania, 382 U.S. 399; 86 S.Ct. 518 (1966)

1 In the US<sup>23</sup>, not counting its territories, there are 3143 counties, 44,829 incorporated cities,  
2 townships etc. and another 30,000 unincorporated self rule entities; AND hundreds of military bases,  
3 391 National Parks, 177 national Forest, 258 million acres of BLM land, 562 Indian reservations and  
4 tens of thousands of other entities open to public travel that employ traffic control devices (shopping  
5 centers, private housing developments, golf courses etc.) Because of the nonfeasance and misfeasance  
6 of the USDOT, including their oversight of Nevada, most of these entities erroneously claim some form  
7 of autonomy, home rule, sovereignty or that they can pick and chose in regards to traffic control and  
8 adjudication standards, and that the Constitution, UVC, and MUTCD mandates are nothing more than  
9 guidelines or that they don't apply to them.

10 Whereas, the current status quo and lack of any meaningful oversight has left motorists in a state  
11 of anarchy in expectation, with 18,898 local and state law enforcement agencies and 19,238 state and  
12 local courts (plus the Indian reservation police, military, federal and territorial authorities)  
13 enforcing their own local expectations, based on whim, on 4 million plus miles of road and untold miles  
14 of trails and waterways<sup>24</sup>.

15 27. Void for Vagueness and more: In this instance, in one of the tens of thousands entities in the US  
16 how could a motorists know that per the whim of a political appointee 15 years ago, for the next speed  
17 limit sign they come upon, it's a crime *under the color of federal law* to violate its proscribed invented  
18 value when NDOT et al had constructive knowledge it was unfounded and unlawful; and they placed  
19 this proscribed value on an official federal regulatory device absent the required by law foundations, a  
20 de facto unposted state regulation because the signs are up to 20 miles and more apart, applying  
21 invented probable cause(s) and disparate local standards of adjudication, fines and court rules?

## 22 VI.

### 23 VIOLATES SUBSTANTIVE AND PROCEDURAL DUE PROCESS

24 28. The Nevada Legislature, NDOT et al or the USDOT for that matter cannot pick and chose which  
25 laws it wishes to comply with, or not, and Nevada's Laws in regards to traffic control and police powers  
26

27 <sup>23</sup> <http://www.capitolimpact.com/>

28 <sup>24</sup> <http://nationalatlas.gov/transportation.html>

1 on roadways and bike paths open to public travel have become a labyrinth of unconstitutional practices,  
2 decrees, invented numerics, enforcement condition clauses and the exercise of police powers that are  
3 non conforming, superseded or repealed by Congress, contrary to the Rule of Law and the Law of the  
4 Land; nor can the USDOT et al recede to the States unconstitutional authorities.

5  
6 **VII.**

7 **UNDER THE COLOR OF FEDERAL LAW**

8 29. Under the Color of Federal Law: All federal regulations, laws and the exercise of police powers  
9 in this field are subordinate to the US Constitution, Congress' Intent et al respectively and shall be  
10 uniform and in substantial conformance. Each act in its promulgation and the exercise of police powers  
11 thereof shall:

- 12 1. be narrowly tailored and vetted as to factual foundations, that it will achieve its desired  
13 effect, examined for unintended consequences and how trends may alter the efficacy or  
14 need of the proposed remedy, and its effects on commerce and substantive due process;
- 15 2. be promulgated in substantial conformance with a single uniform application,  
16 appearance, expectation and adjudication standard regardless of entity type or  
17 jurisdiction in the United States and its Territories;
- 18 3. be fact based per nationally recognized engineering institutions and scientific  
19 methodologies et al; in which all subordinate act's foundation or justifications can be  
20 cross-examined in a court of law; and
- 21 4. be in conformance with the domain of the Constitution per the Commerce, Supremacy  
22 and Equal Protection Clause(s), and Congress' intent et al in this field.

23 **VIII.**

24 **UNCONSTITUTIONAL ACTS ARE NOT LAW**

25 30. Clearly there is no debate that there is an absolute intent of our Founding Fathers to reserve to  
26 Congress the regulation of the nation's post roads (highways) in the interest of national defense and  
27 commerce, or of Congress' invocation of the Commerce Clause in the Highway Safety Act of 1966 to  
28 preempt the regulation of all traffic control devices to achieve "roadway safety" and "uniformity"  
within the United States and its Territories; via fact based standards and uniformity of expectations and  
the exercise of police powers thereof in a federal system that encompasses this entire field.

1 31. We must distinguish form and substance. Not just anything passed by legislators that have the  
2 form of a law, is in fact, a law. To be a law, an enactment must be constitutional, i.e., within the actual  
3 de jure authority of the Legislature.

4 This is res judicata. "All laws which are repugnant to the Constitution are null and void."  
5 *Marbury v Madison*, 5 US (2 Cranch) 137, 174, 176; 2 LE 60 (1803). "Where rights secured by the  
6 Constitution are involved, there can be no rule making or legislation which would abrogate them."  
7 *Miranda v Arizona*, 384 US 436, 491; 86 S Ct 1602; 16 L Ed 2d 694 (1966). "An unconstitutional act  
8 is not law; it confers no rights; it imposes no duties; affords no protection; creates no office. It is in  
9 legal contemplation, as inoperative as though it had never been passed." *Norton v Shelby County*,  
10 *Tennessee*, 118 US 425, 442; 6 S Ct 1121; 30 L Ed 178 (1886).

11 IX.

12 **REQUEST**

13 WHEREFORE, Defendant request that the Court will grant motion or set this matter down for a  
14 hearing, and to otherwise withhold any order on the Defendant 's motion and upon hearing order that:

- 15 A. any and all evidence obtained as fruits of an illegal arrest be suppressed;
- 16 B. that any and all evidence that lacks foundation be suppressed, including the 70 mph posted  
17 value in this instance absent the State's production of said complying comprehensive traffic  
18 engineering study dated 1995, and hence per the MUTCD in 2000, and 2003 respectfully ; and  
19 C. the Defendant Charles Eugene Dornsife also respectfully request that the Court forward this  
20 Motion to Suppress to the State AG, thus relaying the import of the facts herein that the  
21 Constitutional Rights' of a Citizen should apply in Nevada in a Court of Record, and that the  
22 State must promulgate its statutes and standards to recognize the full Federal Constitutional rights  
23 and protections for our Citizens, and Nevada's statutes and practices must be in substantial  
24 conformance with all applicable federal conditions precedent in this field.

25 Dated this 17th day of May, 2010

26 \_\_\_\_\_  
27 CHARLES EUGENE DORNSIFE, Propria Persona  
28

1 CERTIFICATE OF SERVICE

2 I, the undersigned, hereby certify that a true and correct copy of the foregoing Motion was also  
3 forwarded to Mr. Andrew Lawson, District Attorney, via fax to 775.482.8175, on this the 17th day of  
4 May, 2010, in accordance with the rules governing same.

5 Respectfully Submitted,

6 \_\_\_\_\_

7 Charles Eugene Dornsife

8  
9  
10 ORDER

11 ON THIS the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_ came on to be heard the foregoing Motion  
12 to Suppress, and same is hereby GRANTED/DENIED, to which action Defendant excepted.  
13

14 \_\_\_\_\_ JUDGE