

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT
FEBRUARY 2, 2015
STATE OF NORTH DAKOTA

Terry Neil Adam,

Petitioner,

v.

Susan C. Thompson, Clerk of Court, and
Judge Stephen Dawson, City of Fargo
Municipal Court,

Respondents.

Supreme Court No. _____

City of Fargo Municipal Court Case:
FA-2014-CR-03903

PETITION FOR SUPERVISORY WRIT

DeWayne Johnston
ND ID# 05763
JOHNSTON LAW OFFICE
221 S 4th St.
Grand Forks, ND 58201
Tel.: (701) 775-0082
Fax: (701) 775-2230
Attorney for Petitioner

[¶1] TABLE OF CONTENTS

Paragraph No.

Table of Contents	¶ 1
Table of Authorities	¶ 2
Statement of Jurisdiction	¶ 3
Statement of Issues	¶ 4
Statement of the Case	¶ 5
Standard of Review	¶ 6
Argument	
I. <u>THE MUNICIPAL COURT’S REFUSAL TO ALLOW TERRY ADAMS A JURY TRIAL IS IN VIOLATION OF HIS CONSTITUTIONAL RIGHTS PURSUANT TO N.D. CONST. ART. I. § 13.</u>	¶7
Conclusion	¶11
<u>ADDENDUM</u>	
Citation	ADD -01
North Dakota Permit	ADD-02
Entry of Plea	ADD-05
First Letter denying Jury Trial	ADD-07
Response to Letter denying Jury Trial	ADD-08
Second Letter denying Jury Trial	ADD-09
Motion to Amend with Fine Notation	ADD-10
Amended Information	ADD-11
Order Granting Motion to Amend Citation by Information	ADD-12
Letter denying Jury on Amended Information	ADD-13

[¶2] TABLE OF AUTHORITIES

<u>State Constitutional Provisions</u>	<u>Paragraph No.</u>
Constitution of North Dakota, Art. VI, § 2	¶ 3
Constitution of North Dakota, Art. I, § 13	¶7,8
<u>State Statutes</u>	
North Dakota Century Code § 27-02-04	¶3
<u>North Dakota State Cases</u>	
<u>Continental Resources v. Schmalenberger</u> , 2003 ND 26	¶3
<u>Heringer v. Haskell</u> , 536 N.W.2d 362, 364-365 (N.D. 1995)	¶3
<u>Reimers v. Eslinger</u> , 2010 ND 76	¶8,10
<u>State v. Severinson</u> , 2013 ND 121	¶6

STATEMENT OF JURISDICTION

[¶3] This Court holds jurisdiction over this proceeding pursuant to Article VI, Section 2 of the Constitution of North Dakota and Section 27-02-04 of the North Dakota Century Code, which provides that “in its superintending control over inferior courts, [the Supreme Court] may issue such original and remedial writs as are necessary to the proper exercise of such jurisdiction.” Supervisory control over inferior courts is used to rectify errors and prevent injustice. *See Heringer v. Haskell*, 536 N.W.2d 362, 364-365 (N.D. 1995), *Continental Resources v. Schmalenberger*, 2003 ND 26, ¶ 7, 656 N.W.2d 730.

STATEMENT OF THE ISSUES

[¶4] Whether the Fargo Municipal violated Terry Adams’ constitutional rights by denying Terry Neil Adam’s request for removal to district court and a jury trial, where Terry Adams faces a fine in excess of \$25. ADD-010.

STATEMENT OF THE CASE

[¶5] The underlying case in municipal court involves a city ordinance violation by Terry Neil Adam for failure to obtain a required Fargo permit for vehicles of excessive weight and size. The fine for such an offense is in excess of \$25. ADD-010. The attorney for Terry Adams requested a jury trial and that the case be removed to district court. Judge Stephen Dawson and Clerk of Court Susan C. Thompson denied the requests.

STANDARD OF REVIEW

[¶6] The standard of review for a claimed violation of a constitutional right is de novo. *State v. Severinson*, 2013 ND 121, ¶ 4.

ARGUMENT

II. THE MUNICIPAL COURT’S REFUSAL TO ALLOW TERRY ADAMS A JURY TRIAL IS IN VIOLATION OF HIS CONSTITUTIONAL RIGHTS PURSUANT TO N.D. CONST. ART. I. § 13.

[¶7] The North Dakota Constitution provides for jury trials in cases where a person is charged with violating a city ordinance and the possible fine is greater than \$20. N.D. CONST. ART. I. § 13. Terry Adams has been accused of violating a city ordinance and faces a fine in excess of \$20. ADD-010. Under the state Constitution, Terry has a right to a jury trial in this case. *Id.* By denying Terry his right to a jury trial, the Fargo Municipal Court has denied Terry his constitutional right.

[¶8] The Constitution of North Dakota provides that “The right of trial by jury shall be secured to all, and remain inviolate.” N.D. Const. Art. I. § 13. The North Dakota Supreme Court fleshed out the scope of Section 13 in regards to municipal ordinance violations in Reimers v. Eslinger. Reimers v. Eslinger, 2010 ND 76. In Reimers, the North Dakota Supreme Court determined that “the Constitution of North Dakota provides [Defendants] with the right of trial by jury for a noncriminal municipal traffic citation punishable by a twenty-dollar fine”. *Id.* at ¶27.

[¶9] Terry Adams has been charged with violating a municipal ordinance for failure to procure a city permit before operating vehicles of excessive size and weight on Fargo public roads. Terry Adams faces a fine in excess of \$20 if found guilty of the violation. As Terry’s violation is a municipal ordinance violation in excess of \$20, according to the decision in Reimers, Terry Adams has a constitutional right to a trial by jury.

[¶10] Terry’s request for a jury trial was unconstitutionally denied based on Clerk of Court’s belief that the Reimers’ ruling does not apply to “infractions”. However, the Reimers ruling does address this argument and finds it unpersuasive. “We [Supreme Court justices] are also unpersuaded by the City’s argument that Reimers does not have a constitutional right to a

jury trial because he was cited for violating a petty offense”. Id at ¶17. The language in the North Dakota Constitution is all inclusive and therefore includes all ordinance violations with fines greater than \$20. Though Terry Adams’ offense may be petty or an infraction, his right to a jury trial is provided for under the North Dakota Constitution.

CONCLUSION

[¶11] The North Dakota Constitution provides Terry Adams with the right to a jury for his city ordinance violation trial. Terry has requested a jury, but his request was denied by the Fargo municipal court. As such a denial is a violation of Terry Adams’ constitutional rights, the petitioner request that the Supreme Court order the Fargo municipal court to acquiesce to the jury trial request.

Respectfully submitted and dated this 2nd day of February, 2015.

JOHNSTON LAW OFFICE

/s/ DeWayne Johnston
DeWayne Johnston (ND ID #05763)
dewayne@wedefendyou.net
221 S 4th St.
Grand Forks, ND 58201
Tel.: (701) 775-0082
Fax: (701) 775-2230
Counsel for the Plaintiff

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

Terry Neil Adam,

Petitioner,

v.

Susan C. Thompson, Clerk of Court, and
Judge Stephen Dawson, City of Fargo
Municipal Court,

Respondents.

Supreme Court No. _____

**City of Fargo Municipal Court Case:
FA-2014-CR-03903**

ADDENDUM

TO

PETITION FOR SUPERVISORY WRIT

DeWayne Johnston
ND ID# 05763
JOHNSTON LAW OFFICE
221 S 4th St.
Grand Forks, ND 58201
Tel.: (701) 775-0082
Fax: (701) 775-2230
Attorney for Petitioner

SUMMONS TO COURT

(Rev. 8/2008)

CIT No. **332715**

CITY OF FARGO } SS
COUNTY OF CASS }

ACC. ☐ YES ☒ NO ICR No. _____

In Municipal Court before Judge _____, the undersigned being duly sworn,
says that on WED 10/1/14 at approximately 1405 hours.

Last Name ADAM First TERRY Middle NEIL

Street Address 17990 140 AVE SE City ST HILAIRE State MN Zip 56754

_____ MPH in _____ MPH Zone Dir. _____ Radar/Laser _____

Committed an offense: _____ ORD. No. _____ BOND _____
☐ MOVING ☐ STATIONARY

1. PERMIT REQUIRED FOR EXCESSIVE SIZE / WEIGHT 8-0922 500-
☐ MAY FORFEIT ☒ MUST APPEAR ☐ MAY FIX IT

2. _____
☐ MAY FORFEIT ☐ MUST APPEAR ☐ MAY FIX IT

3. _____
☐ MAY FORFEIT ☐ MUST APPEAR ☐ MAY FIX IT

LOCATION: 38 ST + 52 AVE S BEAT NO. 134 Y or N Car # 100

Complainant D. Hanson City Prosecutor Sworn to, Dated _____ Judge _____

LET A WARRANT ISSUE HEREIN

DESCRIPTION OF DEFENDANT / VEHICLE
Dr. Lic. _____ State MN No. F566055052517 Employed/School OPP CONSTRUCTION Home Phone _____ Bus _____
DOB 7/24/78 Race W Sex M Ht. 5'9 Wt. 175 Hair BRO Eyes BLU Build MD Complexion LT
Place of Birth* _____ Other/SSN _____ Vin # _____

Veh. Color WHY Yr. 05 Make INTL CMV Y or N Y Hazmat Y or N Y Veh. Lic # 53705 St. ND Yr. 12/14

SUMMONS: You are hereby summoned to appear at the place designated below to answer to the above charge or post bail.
If you fail to appear or post bond a warrant will be issued for your arrest.

COURT APPEARANCE DATE WED 10/15/14 1:15 AM PM Officer X D. Hanson No. 286
 Fargo Municipal Court 402 NP Ave. N. Fargo, ND 58102
 Day of Week Mo. Day Yr. Time
 Date Served 10/1/14 Mo. Day Yr.

PROMISE TO APPEAR: I hereby consent and promise to appear before the Fargo Municipal Court at the time and place specified or to post bond-as required. I acknowledge the receipt of a copy of this summons and I expressly waive earlier hearing and acknowledge my duty to post bond for "may forfeit" offenses.

IMPORTANT - READ - OTHER SIDE

VIOLATOR'S COPY



North Dakota Highway Patrol

Official Permit

PERMIT # 2014195582

Issued By: 888 - w. user

Over Dimensional Only, Service Fee

Owner Name	Opp Construction		Date Issued	9/30/2014
Address	3625 N. Washington St.		Time Issued	2:32PM
City, State, Zip	GRAND FORKS, ND 58203	Begin Date/Time	10/01/2014	
Fax		End Date/Time	10/03/2014	
Email Address	terryadam@oppconstruction.com			
DOT No.	429937	Unit		
Insured by		Coverage	\$	Insurance Exp Date
VIN	2HSCNSCR85C000419	Make	INTERNATIONAL	Year 2005 License No. 53705 State ND
Owner of Load		Registered Vehicle Weight	105000	
Description of Load	rex paver			
From	000081B, 4.8mi NE of Horace	To	US-81 BUS, 2.9mi NW of Grand Forks	
Maximum Permitted:	Overall Length	75 ft, 0 in	Bridge Length	0 ft, 0 in
	Overall Height	12 ft, 6 in	Overall Width	13 ft, 5 in
Overhang:	Front	0 ft, 0 in	Rear	0 ft, 0 in
			Total Price	\$35.00



North Dakota Highway Patrol

Official Permit

PERMIT # 2014195582

Issued By: 888 - w. user

38-06-04-01. NDAC. Liability of permit applicant: 1) The applicant or permittee, as a condition for obtaining an oversize or overweight, or both, permit, shall assume all responsibility for accidents, damage, or injury to any persons or damage to public or private property caused by the movement of any oversize or overweight, or both, vehicle or load covered by the permit while upon public highways of the state. 2) The applicant or permittee agrees to indemnify and hold harmless the North Dakota Department of Transportation, the North Dakota Highway Patrol, their officers, and employees from any and all claims resulting directly or indirectly from the movement of an oversize or overweight, or both, vehicle or load on any public highway of the state of North Dakota.

PERMISSION FOR THIS MOVEMENT IS HEREBY GRANTED subject to compliance with provisions of North Dakota laws of the State of North Dakota and under their terms, conditions and restrictions contained herein, and subject to revocation upon noncompliance.

The NDHP permit system authorizes movement on state and interstate roadways only. Contact local authorities for travel on local roadways. Speed restrictions listed under the driving directions supersede all other speed requirements.

Remarks

Requirements:

1. Require 18" x 18" red flags, front & rear, traffic side of load.
2. No travel when inclement weather prevails, if visibility is poor, or highway is slippery.
3. Must display a 12" x 60" 'OVERSIZE LOAD' sign.
4. No travel in hours of darkness. Movement must occur within 1/2 hour prior to Sunrise through 1/2 hour after Sunset.
5. Allow all traffic to pass.
6. No travel on shoulders of road.
7. All vertical clearances are the responsibility of the permittee.
8. Towing vehicle must have 2 mirrors which reflect a rear-view of 200 feet to the driver.
9. All axle weights must be legal.
10. For road conditions: www.dot.nd.gov/travel-info.html or call 511.
11. Nighttime travel allowed if 10' wide or less and when properly lighted. (All other dimensions must be legal).
12. Truck parking and rest areas are not to be used as staging areas for dollying down load.
13. No travel in hours of darkness if trailer length plus load exceeds 53'. Movement must occur within 1/2 hour prior to Sunrise through 1/2 hour after Sunset.

Routing URL: <https://apps.nd.gov/hpear/ViewPermitRoute.aspx?EARGuid=eb1bde66-cc31-46b8-ba64-783a9fc5903>

Scan to view routing info:



Route:

From: 000081B, 4.8mi NE of Horace

To: US-81 BUS, 2.9mi NW of Grand Forks

Route Description: 81B, I-29, EXIT 141, EXIT 141, US-2, US-81 BUS, US-81 BUS,

Driving Directions:

	Miles	Route	To	Distance	Time
1	0.00		Origin: 000081B, 4.8mi NE of Horace	0.00	00:00
2	0.30	81B	Bear to the right onto I-29 [US-81]	0.30	00:01
3	80.20	I-29	Take Exit 141 toward US-2/GATEWAY DR	80.50	01:09
4	0.20	EXIT 141	Jct 29 & 162ND AVE SE by GRAND FORKS	80.70	01:10
5	0.10	EXIT 141	Merge onto US-2 [GATEWAY DR]	80.80	01:10
6	1.90	US-2	Turn left onto US-81 BUS [81B] [WASHINGTON ST]	82.70	01:12
7	2.00	US-81 BUS	Bear to the left onto US-81 BUS [81B] [WASHINGTON ST]	84.70	01:17
8	0.00	US-81 BUS	Arrive at US-81 BUS, 2.9mi NW of Grand Forks, ND	84.70	01:17
9	0.00		Final Destination: US-81 BUS, 2.9mi NW of Grand Forks	0.00	00:00

IN MUNICIPAL COURT, CITY OF FARGO, STATE OF NORTH DAKOTA

ENTRY OF PLEA

City of Fargo vs. **Terry Neil Adam**

Case FA-2014-CR-03903 Permit Req/Excess Size & Wt

GUILTY PLEA:

I plead guilty and waive all my rights listed and acknowledged by me on the Notification of Rights. My plea is freely and voluntarily made without threat or the result of force, and without any promises except for any plea agreement made between the prosecuting attorney and myself or my attorney.

My guilty plea (circle one) **IS** or **IS NOT** the result of a plea agreement.

The attorney representing me is _____. If I am not represented by an attorney, I waive my right to consult with an attorney of my choosing and any right I may have to have an attorney appointed to represent me.

I have read and understand each of my legal rights listed in the Notification of Rights. The judge accepting this plea has answered all of my questions.

Defendant's signature

Date

ACCEPTANCE OF GUILTY PLEA:

Having established a factual basis for the guilty plea by:

_____ the defendant's statement,
_____ the prosecution's statement, or
_____ other (describe) _____,

I hereby accept the defendant's plea of guilty.

Municipal Judge

Date

NOT GUILTY PLEA:

I have read and understand each of my legal rights listed in the Notification of Rights.

I plead not guilty, and make the following choice concerning court appointed counsel:

I (circle one) **DO** or **DO NOT** request that I be provided with a court appointed attorney. If I do not request an appointed attorney I will either retain an attorney to represent me or I waive my right to be represented by an attorney.

NOTE: TO REQUEST A COURT APPOINTED ATTORNEY, you must complete an application providing financial information **prior to your appearance today** and submit it to the court (**an appointed attorney is not provided on the trial of an infraction**).

I understand that if I do not make a written demand for a jury trial of a class B misdemeanor within 28 days from today, I will have waived my right to a jury trial and my case will be tried before a municipal court judge without a jury.

Attny for

Defendant's signature

10-30-14

Date

Application for appointed counsel:

Approved _____

Denied _____

Name of appointed counsel: _____

BY THE COURT:

Municipal Judge

Date

Hearing based form

IN MUNICIPAL COURT, CITY OF FARGO, STATE OF NORTH DAKOTA
NOTIFICATION OF RIGHTS AND ACKNOWLEDGMENT – CRIMINAL OFFENSE

City of Fargo vs. **Terry Neil Adam**

Case FA-2014-CR-03903 Permit Req/Excess Size & Wt Infraction

Maximum Penalty: Class B Misdemeanor - 30 days imprisonment and a \$1,500 fine.


Infraction - \$1000.00 fine

YOU HAVE THE FOLLOWING RIGHTS:

1. To be informed of the nature of the charge against you.
2. To be informed of the maximum and minimum penalties that may be imposed if you are convicted or if you plead guilty to the offense.
3. Against self-incrimination, which means that you have the right to remain silent, and to know that any statement made by you may be used against you in a criminal prosecution. At trial, you may testify or not testify as you choose.
4. you have the right to be represented by an attorney at trial and at every other stage of the proceeding and, if you cannot afford legal counsel, you have the right to have counsel appointed to represent you at public expense. **(Appointed counsel is not available if the offense is an infraction.)**
5. To be admitted to bail pursuant to the provisions of N.D.Crim.P. 46. (Conditions which reasonably assure your appearance at all court proceedings).
6. To enter a plea of either guilty or not guilty and to persist in a plea of not guilty.
7. To be presumed innocent. You may be convicted only if the city proves beyond a reasonable doubt that you have committed each and every element of the offense.
8. To confront and cross-examine in court the witnesses against you. To present witnesses to testify on your behalf and to use this court's subpoena power to have witnesses appear at trial on your behalf.
9. To have a trial by a jury in district court if you make a **written request for jury trial within 28 days following a plea of not guilty.** If your case remains in municipal court and you are found guilty by a judge you may appeal to the district court for a new trial before a judge. **(A jury is not available for the trial of an infraction).**

If you plead guilty, there will be no trial of any kind. By pleading guilty, you give up your right to a trial and to an appeal, to confront the witnesses against you, and your privilege against self-incrimination.

NOTE: If you fail to appear for a scheduled court date, your bond will be forfeited, a conviction (where authorized by statute) may be entered against you on the pending charge pursuant to Section 39-06-30, North Dakota Century Code, and a warrant may issue for your arrest.

Attorney for

Defendant's signature

10-30-14

Date
hearing based form

**CITY OF FARGO
MUNICIPAL COURT**

402 NP AVE N
P.O. BOX 49
FARGO, NORTH DAKOTA 58107-0049

TELEPHONE: 701-241-1316
FAX: 701-241-1320

November 06, 2014

DEWAYNE JOHNSTON
ATTORNEY AT LAW
221 SOUTH 4TH ST
GRAND FORKS ND 58201

RE: CITY OF FARGO V. Terry Neil Adam
CASE FA-2014-CR-03903 Permit Req/Excess Size & Wt

Dear Terry Neil Adam:

A demand for jury trial on the above case was filed on November 06, 2014.

North Dakota Century Code 40-18-15.1 does not provide for transfers of charges classified as infractions, therefore the above matter will not be transferred.

Your next hearing remains set for December 04, 2014 at 1:30 PM.

Very truly yours,



Susan C Thompson
Clerk of Court

SCT: ja

Johnston Law Office

221 South 4th Street
Grand Forks, ND 58201
Phone: (701) 775-0082
Fax: (701) 775-2230

November 7, 2014

Susan Thompson
City of Fargo
Municipal Court
402 NP Ave. N.
Fargo, ND. 58107-0049
701-241-1320 (facsimile)

RE: FA-2014-CR-03903

Via facsimile only

Dear Ms. Thompson:

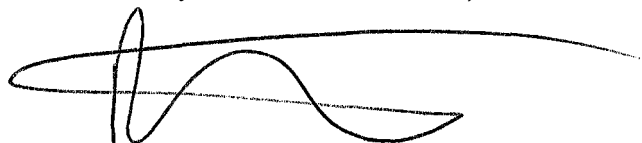
I am in receipt of your letter dated November 6, 2014. Your court no longer has jurisdiction over the matter. Because the amount of the fine in this case exceeds that allowed by the North Dakota Constitution in relation to petty or infraction based allegations the defendant is entitled to a jury trial.

“It is well-established, however, that: [t]his provision of our constitution that the right of trial by jury shall remain inviolate neither enlarges nor restricts that right but merely preserves it as it existed at the time of the adoption of our constitution.”

State v. Anderson, 730 N.W.2d 570, 574 (N. D. 2007) citing to *In re R.Y.*, 189 N.W.2d 644, 651 (N.D. 1971). It preserves the right of trial by jury for all cases in which it could have been demanded as a matter of right at common law at the time of the adoption of our Constitution. *General Elec. Credit Corp. v. Richman*, 338 N.W.2d 814, 817 (N.D. 1983). Compiled Law of Dakota Territory (1887) governs the right to trial by jury. *State v. \$17,515 in Cash Money*, 670 N.W.2d 826, 827 (N.D. 2003). The legislature has the ability to limit the right to a jury trial by creating new statutory procedures or proceedings. *State v. Brown*, 771 N.W.2d 267, 281. (N.D. 2009). But the legislature cannot limit constitutionally protected rights, including the right to a jury trial, if it existed at the time the constitution was adopted. *Riemers v. Eslinger*, 781 N.W.2d 632, 639 (N.D. 2010) citing *Barry v. Traux*, 99 N.W. 769, 770 (N.D. 1904) (stating the legislature cannot “destroy by legislation. . . . any of the substantial elements of the right of jury trials” secured by the state constitution). Please forward the file.

Sincerely,

DeWayne Johnston



cc: Jason Loos 701-476-4179 (facsimile)

ADD - 000008

**CITY OF FARGO
MUNICIPAL COURT**

402 NP AVE N
P.O. BOX 49
FARGO, NORTH DAKOTA 58107-0049

November 10, 2014

TELEPHONE: 701-241-1316

FAX: 701-241-1320

DeWayne Johnston
Johnston Law Office
221 S 4th St
Grand Forks ND 58201

RE: CASE FA-2014-CR-3903
CITY OF FARGO VS TERRY NEIL ADAM

Dear Mr. Johnston:

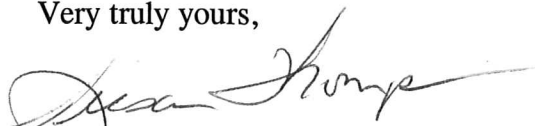
According to *Riemers v Eslinger*, infractions are not entitled to jury trial.

[¶13] We reject the City of Grand Forks' argument that this case is directly analogous to State v Brown, 2009 ND 150, 771 N.W.2d 267. In Brown, the district court held a bench trial regarding a citation issued to Brown for violating a Cass County animal control ordinance.

This Court stated the legislature intended for infractions to constitute "an entirely new category of lesser criminal offenses with its own unique procedural requirements." Id at 50. Because the legislature created a new category of crimes and procedures which did not exist at the time the state constitution was adopted, we held "a person charged with violating an infraction-level offense, including a county ordinance creating an infraction-level offense, which carries no possibility of imprisonment, is not entitled to a jury trial under N.D. Const. art. I, § 13."

The case remains scheduled for pretrial on December 4, 2014 at 1:30 P.M.

Very truly yours,



Susan C Thompson
Clerk of Court

SCT:
C: Jason Loos

IN MUNICIPAL COURT, CITY OF FARGO, STATE OF NORTH DAKOTA

City of Fargo, Plaintiff, v. Terry Neil Adam, Defendant.	Defendant's Copy Case # FA-2014-CR-03903 MOTION TO AMEND CHARGING DOCUMENT AND CONTINUE TRIAL
--	--

The City of Fargo hereby moves this Court for permission to file an Amended Information in Lieu of Citation in the above entitled matter, in order to correct an error on the charging document. The citation alleges that the defendant committed the offense of "Permit Required for Excessive Size/Weight," in violation of "Ordinance 8-0922." The ordinance prohibiting an individual from driving an oversized or overweight vehicle on city streets without a permit is actually 8-0920.

For this reason, the City moves to amend the charging document to charge the defendant with having violated Municipal Ordinance 8-0920. Attached is an Amended Information in Lieu of Citation. The amended charge is a criminal infraction, carrying a mandatory fine of \$100.

Because trial in this matter is currently scheduled for January 13, 2015, the City also moves to continue the trial so that the defendant has a reasonable opportunity to review the amended charging document prior to trial.

Pursuant to a telephone conversation with the defendant's attorney, DeWayne Johnston, the undersigned believes the defendant has no objection to either of these motions.

Dated this 12th day of January, 2015.



Jared Hines
ND Bar # 07624
City Prosecutor
412 NP Avenue
Fargo, ND 58102
(701) 241-8596

IN MUNICIPAL COURT, CITY OF FARGO, STATE OF NORTH DAKOTA

Defendant's Copy

City of Fargo,

Plaintiff,

v.

Terry Neil Adam,
YOB: 1978
St. Hilaire, MN 56754

Defendant.

FA-2014-CR-03903

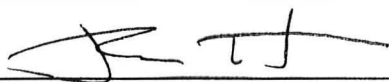
AMENDED INFORMATION IN LIEU
OF CITATION

On the date of occurrence, stated below, within the City of Fargo, Cass County, North Dakota, the above-named Defendant drove or permitted to be driven a motor vehicle in the City of Fargo in violation of the restrictions on size, weight, and load established by North Dakota state law as follows: the defendant drove an oversized vehicle on 52nd Avenue South, in Fargo, ND, without having in his possession a permit issued by the City Engineer.

In Violation of Fgo. Mun. Code § 8-0920 (Size/Weight/Load Restrictions)(Infraction)

This contrary to, and in violation of, the provisions of the ordinances of the said City of Fargo.

Dated this 12th day of January, 2015.



Fargo City Prosecutor

October 1, 2014

Date of Offense

The above prosecutor has read, verified and signed this Information believing the facts set forth to be true.

City's Witnesses:

Officer Dan Hansen

IN MUNICIPAL COURT, CITY OF FARGO, STATE OF NORTH DAKOTA

City of Fargo,

Plaintiff,

vs.

Terry Neil Adam,

Defendant.

Criminal No. FA-2014-CR-03903

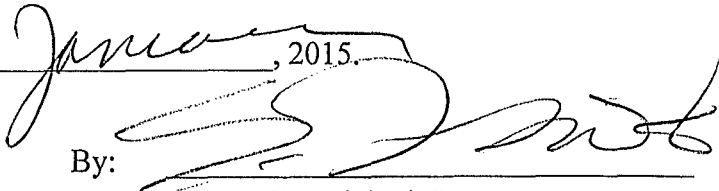
ORDER

The above entitled matter having come before the Court on the Plaintiff's motion to amend the charging document, and the Court being fully informed in the matter;

IT IS ORDERED that Plaintiff's motion is granted.

Dated this 13 day of January, 2015.

By:


Judge of Municipal Court

FILED-CLERK OF MUNICIPAL COURT

JAN 13 2015

FARGO, ND

☒ City Pros ☒ COPY TO: Def Atty ☐ Defendant

JAN 13 2015

☐ Jail ☐ Centre ☐ Alt Corr
☐ Restore

**CITY OF FARGO
MUNICIPAL COURT**

402 NP AVE N
P.O. BOX 49
FARGO, NORTH DAKOTA 58107-0049

TELEPHONE: 701-241-1316
FAX: 701-241-1320

January 20, 2015

Terry Neil Adam
12990 140TH AVE SE
ST HILAIRE MN 56754

RE: CITY OF FARGO V. Terry Neil Adam
CASE FA-2014-CR-03903 Permit Req/Excess Size & Wt

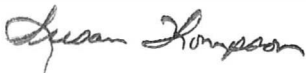
Dear Terry Neil Adam:

A demand for jury trial on the above case was filed on January 16, 2015.

North Dakota Century Code 40-18-15.1 does not provide for transfers of charges classified as infractions, therefore the above matter will not be transferred.

Your next hearing remains set for February 03, 2015 at 9:00 AM.

Very truly yours,



Susan C Thompson
Clerk of Court

SCT: ja

ADD-13

**IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

Terry Neil Adam,

Petitioner,

v.

Susan C. Thompson, Clerk of Court, and
Judge Stephen Dawson, City of Fargo
Municipal Court,

Respondents.

Supreme Court No. _____

City of Fargo Municipal Court Case:
FA-2014-CR-03903

CERTIFICATE OF SERVICE

I, **DEWAYNE JOHNSTON**, attorney for the Petitioners, and an officer of the court, hereby certify that true and correct copies of the documents as indicated below were served ELECTRONICALLY on this 2nd day of February, 2015, upon the following, at the e-mail addresses indicated below:

Served upon:

The Hon. Stephen R. Dawson Municipal Court Judge 412 NP Ave. Fargo, ND 58102 stevedawson@cablone.net	Jared Hines 412 NP Ave. Fargo, ND 58102 jhines@lawfargo.com
---	---

- 1. Petition for Supervisory Writ and Writ of Mandamus with Addendum**
- 2. Petitioners Addendum**

Dated: February 2, 2015

JOHNSTON LAW OFFICE

/s/ DeWayne Johnston
DeWayne Johnston (ND ID# 05763)
221 S 4th St.
Grand Forks, ND 58201
Tel.: (701) 775-0082
Fax: (701) 775-2230
Attorney for Petitioner