

STATE OF NEW YORK
COUNTY COURT

COUNTY OF MONROE

THE PEOPLE OF THE STATE OF NEW YORK

-VS-

MERRITT A. RAHN

FIRST COUNT:

THE GRAND JURY OF THE COUNTY OF MONROE, by this indictment, accuses the defendant, MERRITT A. RAHN, of the crime of Hindering Prosecution in the Second Degree, in violation of Section 205.60 of the Penal Law of the State of New York, committed as follows:

The defendant, on or about and between June 7, 2008, and June 12, 2008, in the County of Monroe, State of New York, rendered criminal assistance to a person, Nicholas Joseph, who committed a Class C felony, to wit: Aggravated Vehicular Assault.

SECOND COUNT:

AND THE GRAND JURY OF THE COUNTY OF MONROE, by this indictment, further accuses the defendant, MERRITT A. RAHN, of the crime of Tampering With Public Records in the First Degree, in violation of Sections 20.00 and 175.25 of the Penal Law of the State of New York, committed as follows:

The defendant, on or about June 10, 2008, in the County of Monroe, State of New York, while acting alone or in concert with another, knowing that he did not have the authority of anyone entitled to grant it, and with intent to defraud, knowingly removed, mutilated, destroyed, concealed, made a false entry in or falsely altered a record or written instrument filed with, deposited in or

otherwise constituting a record of a public office or public servant, to wit: a Greece Police Department Investigative Action Report, CR # 8039701, dated June 10, 2008, authored by Sgt. Thomas Schamerhorn.

THIRD COUNT:

AND THE GRAND JURY OF THE COUNTY OF MONROE, by this indictment, further accuses the defendant, MERRITT A. RAHN, of the crime of Falsifying Business Records in the First Degree, in violation of Sections 20.00 and 175.10 of the Penal Law of the State of New York, committed as follows:

The defendant, on or about June 10, 2008, in the County of Monroe, State of New York, while acting alone or in concert with another, with intent to defraud, made or caused a false entry in the business records of an enterprise, to wit: Greece Police Department Investigative Action Report, CR # 8039701, dated June 10, 2008, authored by Sgt. Thomas Schamerhorn, and his intent to defraud included an intent to commit another crime or to aid or conceal the commission thereof.

FOURTH COUNT:

AND THE GRAND JURY OF THE COUNTY OF MONROE, by this indictment, further accuses the defendant, MERRITT A. RAHN, of the crime of Falsely Reporting an Incident in the Third Degree, in violation of Section 240.50, Subdivision 3 (c) of the Penal Law of the State of New York, committed as follows:

The defendant, on or about June 10, 2008, in the County of Monroe, State of New York, knowing the information reported, conveyed or circulated to be false or baseless, gratuitously reported to a law enforcement officer or agency, false information relating to an actual offense or incident or to the alleged implication of some person therein.

FIFTH COUNT:

AND THE GRAND JURY OF THE COUNTY OF MONROE, by this indictment, further accuses the defendant, MERRITT A. RAHN, of the crime of Official Misconduct, in violation of

Section 195.00, Subdivision 1 of the Penal Law of the State of New York, committed as follows:

The defendant, a public servant, on or about and between June 7, 2008 and June 12, 2008, in the County of Monroe, State of New York, with intent to obtain a benefit or deprive another person of a benefit, committed an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act was unauthorized.

SIXTH COUNT:

AND THE GRAND JURY OF THE COUNTY OF MONROE, by this indictment, further accuses the defendant, MERRITT A. RAHN, of the crime of Official Misconduct, in violation of Section 195.00, Subdivision 2 of the Penal Law of the State of New York, committed as follows:

The defendant, a public servant, on or about and between June 7, 2008 and June 12, 2008, in the County of Monroe, State of New York, with intent to obtain a benefit or deprive another person of a benefit, knowingly refrained from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office.

SEVENTH COUNT:

AND THE GRAND JURY OF THE COUNTY OF MONROE, by this indictment, further accuses the defendant, MERRITT A. RAHN, of the crime of Tampering With Public Records in the First Degree, in violation of Section 175.25 of the Penal Law of the State of New York, committed as follows:

The defendant, on or about February 9, 2001, in the County of Monroe, State of New York, knowing that he did not have the authority of anyone entitled to grant it, and with intent to defraud, knowingly removed, mutilated, destroyed, concealed, made a false entry in or falsely altered any

~~record or other written instrument filed with, deposited in or otherwise constituting a record of a~~
public office or public servant, to wit: a written memorandum prepared by the defendant to John Auberger, Supervisor of the Town of Greece, dated February 9, 2001.

EIGHTH COUNT:

AND THE GRAND JURY OF THE COUNTY OF MONROE, by this indictment, further accuses the defendant, MERRITT A. RAHN, of the crime of Offering a False Instrument for Filing in the First Degree, in violation of Section 175.35 of the Penal Law of the State of New York, committed as follows:

The defendant, on or about February 9, 2001, in the County of Monroe, State of New York, knowing that a written instrument, to wit: a written memorandum prepared by the defendant to John Auberger, Supervisor of the Town of Greece, dated February 9, 2001, contains a false statement or false information, and with intent to defraud the state or any political subdivision thereof, to wit: the Town of Greece, offered or presented said written instrument to a public office or public servant, with the knowledge or belief that said written instrument would be filed with, registered or recorded in or otherwise become a part of the records of such public office or public servant.

NINTH COUNT:

AND THE GRAND JURY OF THE COUNTY OF MONROE, by this indictment, further accuses the defendant, MERRITT A. RAHN, of the crime of Tampering With Public Records in the First Degree, in violation of Sections 20.00 and 175.25 of the Penal Law of the State of New York, committed as follows:

The defendant, on or about February 18, 2000, in the County of Monroe, State of New York, while acting alone or in concert with another, and knowing that he did not have the authority of anyone entitled to grant it, and with intent to defraud, knowingly removed, mutilated, destroyed,

~~concealed, made a false entry in or falsely altered any record or other written instrument filed with,~~

deposited in or otherwise constituting a record of a public office or public servant, to wit: a Greece Police Department Incident Report, CR # 0012017, dated February 18, 2000, authored by Captain William Mackin.

TENTH COUNT:

AND THE GRAND JURY OF THE COUNTY OF MONROE, by this indictment, further accuses the defendant, MERRITT A. RAHN, of the crime of Offering a False Instrument for Filing in the First Degree, in violation of Sections 20.00 and 175.35 of the Penal Law of the State of New York, committed as follows:

The defendant, on or about February 18, 2000, in the County of Monroe, State of New York, while acting alone or in concert with another, knowing that a written instrument, to wit: a Greece Police Department Incident Report, CR # 0012017, dated February 18, 2000, authored by Captain William Mackin, contained a false statement or false information, and with intent to defraud the state or any political subdivision thereof, to wit: the Town of Greece, offered or presented said written instrument to a public office or public servant, with knowledge or belief that said written instrument would be filed with, registered or recorded in or otherwise become a part of the records of such public office or public servant.

ELEVENTH COUNT:

AND THE GRAND JURY OF THE COUNTY OF MONROE, by this indictment, further accuses the defendant, MERRITT A. RAHN, of the crime of Tampering With Public Records in the First Degree, in violation of Sections 20.00 and 175.25 of the Penal Law of the State of New York, committed as follows:

The defendant, on or about February 18, 2000, in the County of Monroe, State of New York, while acting alone or in concert with another, and knowing that he did not have the authority of anyone entitled to grant it, and with intent to defraud, knowingly removed, mutilated, destroyed, concealed, made a false entry in or falsely altered any record or other written instrument filed with, deposited in or otherwise constituting a record of a public office or public servant, to wit: a Teletype dated February 18, 2000, entered into NYSPIN by Patricia Minnick.

MICHAEL C. GREEN
DISTRICT ATTORNEY OF MONROE COUNTY

STATE OF NEW YORK
COUNTY COURT

COUNTY OF MONROE

THE PEOPLE OF THE STATE OF NEW YORK

Indictment #

CR# 09-000022-MDA

~~against~~

MERRITT A. RAHN

CPL § 710.30 Notice
CPL § 250.20 Demand

PLEASE TAKE NOTICE that the People intend to offer at the trial of the above case:

Evidence of oral statement(s) made by the defendant, to a public servant,
_____, at _____ on _____ (at or about _____ a.m./p.m.),
the sum and substance of which is:

Evidence of a written statement made by the defendant to public servant(s), INV. JAMES NEWELL at New York State Police Barracks, 1155 Scottsville Road, Rochester, New York 14624 on July 24, 2008 (at or about 10:00 a.m.), a copy of which is attached hereto and incorporated herewith.

Testimony regarding an observation of the defendant at the time or place of commission of the offense and/or upon some other occasion relevant to the case, such testimony to be given by a witness who has previously identified the defendant at the following identification procedure(s) [The "Name of Witness" refers to name of witness making a positive identification]:

Date:	Type:	Place:	Approx. Time:	Name of Witness:
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PLEASE TAKE FURTHER NOTICE that if the defendant intends to offer for any purpose whatever testimony that at the time of the commission of the crime charged the defendant was at some place or places other than the scene of the crime and intends to call witnesses in support of such defense, the People request that the within eight days of the service of this demand the defendant serve upon the People and file a copy thereof with the court, a "NOTICE OF ALIBI" in accordance with Criminal Procedure Law Section 250.20(1).

THE PEOPLE ARE READY FOR TRIAL. People v. Kendzia, 64 NY2d 331 (1985).

Dated: Rochester, New York
10/02/2009

Respectfully submitted,
MICHAEL C. GREEN
Monroe County District Attorney
832 Ebenezer Watts Building
Rochester, New York 14614

SUPPORTING DEPOSITION

New York State Police

STATE OF NEW YORK
Criminal Court

County of Monroe
Town of Chili

THE PEOPLE OF THE STATE OF NEW YORK)
)
 vs)
)
 NICHOLAS JOSEPH)
 (Defendant))

SUPPORTING DEPOSITION

STATE OF NEW YORK)
COUNTY OF MONROE)
TOWN OF CHILI)

ss.

I, MERRITT RAHN, 02/04/49, am the Chief of the Greece Police Dept. and have been since, 1992, state the following:

On June 7, 2007, at about 11:25AM I received a call from NICK JOSEPH, who is a sergeant with my department. NICK told me, He thought he was involved in an accident last night, I said what do you mean I thought, NICK said he did not know where. I again asked and NICK told me he thought it was Ridge Rd or I-390. I told NICK; if you find out let me know. NICK told my that his wife told him that he had called her on his cell phone, but NICK said he did not know how that was possible because he could not find his cell phone. At this time I had not been notified by any members of my Department of an accident involving NICK JOSEPH or any other, accident. It is not out of the ordinary for members of my department to call me directly. I then receive a call a few minutes later from NICK and he advised me: NICK states that he thinks the accident was on 390, near Ridge Rd. NICK told me he was pretty injured right now; my wife wants him to go to the hospital. I recall further conversation with NICK advising me that he was pretty injured and was going to the hospital. NICK also told me that he did not know when he would be able to come back to work. I did no follow-up in regards to the calls with NICK JOSEPH because at this time it is an off-duty injury. Later that same day around 1:30PM I received a call from Sgt ANDREW ELLMORE, I was at Home Depot, ELLMORE advised me that the GPD was investigating an accident and NICK JOSEPH was involved in that accident. It was a follow up from last night and SGT SCHAMERHORN had the accident. I advised him that I was aware of the accident because I had received a call from NICK JOSEPH.

On Tuesday June 10, 2008, I was walking by Deputy Chief MACKIN'S office and saw that he is talking to SGT SCHAMERHORN. I walk into the office and listened to the conversation; they are talking about the accident involving NICK JOSEPH. I inquire about the accident and SCHAMERHORN tells me that one car was parked on the roadway with its lights out, and that NICK was northbound on I-390 and struck the parked car. NICK then got up and walked away from the accident. SCHAMERHORN also advised me that the operator of the parked vehicle did not have a license and was ticketed for AUO. I asked why did NICK walk away from the accident, and SGT SCHAMERHORN advised me that he had an opinion. SCHAMERHORN told me that their was a lot of blood, scalp and hair in the windshield and not unusual for a person to have a severe concussion based on those type of injuries. This was based on SCHAMERHORNS experience as a paramedic. I voiced my concerns about this and told them I wanted to contact the District Attorney's Office and then called for MIKE GREEN but he was tied up and spoke with KEN HYLAND. I spoke with KEN HYLAND and advised him of the basic scenario that I had received from Sgt SCHAMERHORN and I was advised by ADA HYLAND that based on this information we, GPD did not have enough to arrest the operator for leaving the scene. I then advised HYLAND that the person who left the scene was a police officer for my department. KEN stated that was different, and he needed to think about it. I then went back and spoke with Deputy Chief MACKIN and advised him of my conversation with the ADA. A report was generated based on my conversation with the District Attorneys office. On the same date at about 2:30PM I had, my monthly scheduled staff meeting so all would know

what was going on. There was some discussion about whether we were going to do an internal on this. I did not learn the basic facts of this accident until my conversation with Deputy Chief MACKIN and SGT SCHAMERHORN, and had still not seen an accident report. I left the staff meeting early and met with Town Supervisor AUBERGER and Personnel Director JOE SPENCER and advised them of what I had learned from SGT SCHAMERHORN this date. It was discussed and I left at about 3:45PM and I received a call from Deputy Chief MACKIN and he tells me about all the rumors he is hearing. Based upon my conversation with him and the rumors he heard, I thought it was best if we started an internal investigation.

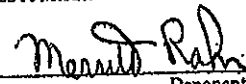
Some of the rumors I was advised about was that JOSEPH was drinking, and that a member of GPD had driven him home after the accident. I then called both Supervisor AUBERGER and then JOE SPENCER and advised them I was starting an internal investigation against NICK JOSEPH.

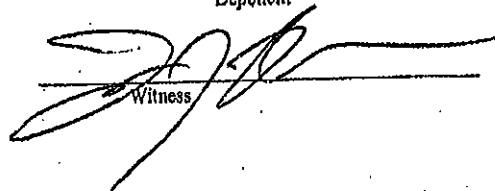
On Wednesday, June 8, 2008 I spoke with ADA KEN HYLAND and advised him that I was doing an internal investigation. It was agreed that I would turn over to the NYSP the criminal investigation and that my Department would handle the internal investigation on NICK JOSEPH, and others.

NOTICE
(Penal Law 210.45)

In a written instrument, any person who knowingly makes a false statement that such person does not believe to be true has committed a crime under the laws of the state of New York Punishable as a Class A Misdemeanor.

Affirmed under penalty of perjury
July 24, 2008


Deponent


Witness

SUBSCRIBED AND SWORN TO BEFORE ME
THIS DAY OF , 2008