

ALLOCUTION

The court asks your permission to pass sentence—why give it?

by Greg Pappas

A close friend of mine I'll call Roland, an outspoken activist opposed to mandatory municipal fluoride programs and against the mandatory vaccination of all people with the smallpox vaccine, was constantly assailed with police harassment several times each month at the instruction of the city council by being pulled over for the probable cause of "weaving" in traffic. He was finally ticketed in the summer of 2003 after he had been unable to pay for the renewal of his automobile insurance on time. Not being certain whether he had made the insurance payment on time and not having the money to pay for a fine to the court, he left the court after his name was called without acknowledging his presence, which appeared to the court that he missed the original appearance date in July. He left the court after observing several people receiving high fines and immediate jail sentences.

In September 2003, Roland was arrested at his home in an illegal process by a neighboring city police officer and was released on a \$487 bond later that day. Everything my friend did was procedurally incorrect including not making the first appearance, bonding out of jail, offering to provide proof of insurance to the judge within one month of the September appearance, and not following or filing any type of procedure with the court to protect his rights.

In October 2003 Roland appeared before the judge in open traffic court expecting to be able to receive time to make payments to pay the \$375 fine because he was unemployed and without benefactor. He saw at least 6 people who were unable to pay the complete fine sent to jail for 20 days or more because of non-payment of the judgment. Roland and I had several conversations prior to the court date discussing an "allocution" that would be effective and decisive, but he was apprehensive about attempting the allocution.

According to Black's Law Dictionary, an allocution (aelekyuwshen) is the "Formality of court's inquiry of prisoner as to whether he has any legal cause to show why judgment should not be pronounced against him on verdict of conviction. State v. Pruitt, Mo., 169 S.W.2d 399, 400."

In other words, when the court asks if you have anything to say before it passes sentence, you are being given the opportunity to tell the court why it should not proceed against you.

Because of pending responsibilities, Roland could not afford the time in jail so at the last minute, because he could not provide proof that he was insured the day of the citation, when called to the bench he pulled out the notes for allocution and proceeded to ask the judge to notify him before she issued sentencing.

She said that she would issue the sentence or judgment immediately. Roland interrupted her and said that he would like to make his allocution [see definition of allocution above] onto the

record first and began by stating that he was indigent with the reading of the definition from Black's 5th Edition Law Dictionary. Roland stated that he had no benefactor and that he could not afford to pay a fine or sentence. He told the court that because of numerous physical injuries he was too crippled to do physical labor or community service.

This was unnecessary as what truly matters here is that the prosecution has not brought forth an injured party with a signed and notarized affidavit of verified complaint. The only evidence in Roland's case was the witness by the police officer who in his public capacity was unable to swear out an affidavit of verified complaint because he was not injured personally and privately by Roland's actions.

By Roland asserting no liability onto the record and that no one had been injured, the allocution was completed with the following: "I do not accept jail time, I do not accept prison time, and I do not accept probation or parole. I do not accept community service, and I do not accept any fines, or penalties, taxes, court costs, or anything to do with me having to pay money."

Upon completion of his allocution, Roland gathered his documents together into his notebook and turned and walked toward the exit. The judge began repeatedly calling Roland's name while Roland ignored her and continued toward the door. The bailiff stepped in front of Roland and did not make contact while looking at Roland and then at the judge. Roland stepped toward the right and continued walking out of the courtroom, exiting the courtroom and then the court house.

Upon returning home Roland listened to a message from the judge's clerk who asserted that the fine was increased from \$375 to \$450 and that Roland needed to appear in court by the following Tuesday to pay the fine or a warrant would be issued for his arrest. I spoke with Roland and allayed his fears stating that he had successfully cancelled the contract with the court by completing the allocution and that the court would have to begin the process of forming a contract with service of process.

Wanting to be certain of no outstanding warrants or pending actions, Roland contacted the court on December 18, 2003 and spoke to a clerk of the court who informed Roland that he needed to be in court on December 23 to pay the fine and to avoid further complications. Roland did not appear in court again.

On February 14, 2004, the city newspaper listed names of people with warrants for arrest and Roland's name did not appear. That same issue of the newspaper also reported the resignation of the judge in Roland's case who relocated to Florida and opened a law practice. Subsequently, Roland has been through sobriety check road blocks on two occasions where the sheriff deputies ran his name without incident and where they did not ask for proof of insurance.

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