

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 12-FO-2438
12-FO-2439

JASON HUBERTY,

Defendant.

STATE'S MOTION TO DISMISS CITATIONS

The State moves to dismiss the citations issued to the defendant, Jason Huberty, for his conduct occurring in the Capitol Rotunda during a Red Cross Blood Drive on September 5 and 6, 2012. The specific pending citations relate to the defendant holding a sign in violation of Wis. Admin. Code ADM §2.07. After these citations were issued, the State was advised that Judge Frank Remington issued a decision in an unrelated case (*Ryan v. Huebsch*, 11-CV-4913) in which the Department of Administration was a party. In part, Judge Remington held that Wis. Admin. Code ADM §2.07 did not apply to a person holding a sign. Said interpretation appears to apply to the specific facts involved in the above pending citation cases. While the State reserves the right to challenge Judge Remington's interpretation as inapplicable to other cases, the State does move the court for a dismissal of the above pending citations based upon that decision.

The State reserves the right to re-issue citations for other administrative code violations occurring on September 5 and 6, 2012. In addition, the State's motion does not restrict the right of the State to issue citations based on other sign violations, or seize signs in certain situations that present a safety issue, or otherwise issue citations for other administrative rule violations. Finally, and for the sake of absolute clarity, conduct that violates the administrative code, including the requirement of obtaining a permit for any demonstration, pursuant to Wis. Admin. Code ADM §2.14(v), will be cited and prosecuted as warranted by the applicable facts and consistent with law enforcement and prosecutorial discretion.

Respectfully submitted,

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