

IN THE MUNICIPAL COURT OF ENTERPRISE, ALABAMA

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CITY OF ENTERPRISE, )
Plaintiff, )
v. )
X, )
Defendant. )

CASE NO:
(Ticket No. N 1653575)

MOTION TO DISMISS

COMES NOW the Defendant in the above-styled cases, through his attorney of record, and respectfully states the following:

- 1. The Defendant is a Captain in the Army Reserve, who on October 28, 2008, at the time of citation, was on active duty as shown on the attached military orders.
2. The alleged violation occurred while the Defendant was serving duty in the militia of the state.
3. Alabama Code § 31-2-79 provides that members of the militia in the active armed forces of the state shall not be arrested on any process issued by or from any civil officer or court, except in the case of a felony or a breach of the peace, while going to, remaining at or returning from any place at which he may be required to attend for military or naval duty; nor in any case whatsoever while actually engaged in the performance of his military or naval duties, treason and murder excepted, unless with the consent of his commanding officer.
4. CPT X's commanding officer has not given consent for his arrest.

WHEREFORE, the Defendant respectfully requests that the above-styled cases be dismissed in accordance with Alabama Code §31-2-79, and any and all other relief that this Honorable Court may deem appropriate.

Respectfully Submitted,

J.
Attorney for the Defendant
209 Lincoln St.
Huntsville, Alabama 35801
Phone: (256)

CERTIFICATE OF SERVICE

I hereby certify that I have on this the 17th day of November, 2008, served a copy of the foregoing on the following, by mailing a copy of same by United States mail, postage prepaid and properly addressed as follows:

Prosecutor for the City of Enterprise
501 South Main St.
P.O. Box 311000
Enterprise, AL 36331-1000

J.