

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)
)
City of Rock Hill,)
)
)
Plaintiff,)
)
v.)
)
[Defendant Name],)
)
)
Defendant.)
_____)

IN THE MUNICIPAL COURT OF
SIXTEENTH JUDICIAL CIRCUIT

TICKET No.: 032117 RU

MOTION TO DISMISS

The above-named Defendant through his undersigned attorney moves the Court to dismiss the charge of violating the Rock Hill Noise Ordinance. The grounds for this Motion are as follows:

1. The Defendant's vehicle was stopped by Rock Hill law enforcement officers on September 9, 2009 and the Defendant was charged with violating the Rock Hill Noise Ordinance.
2. The Rock Hill Municipal Code § 18-69 states, "It shall be unlawful for any person, in the operation of a motor vehicle, to cause, suffer or allow any loud, excessive or unusual noise in the operation or use of such motor vehicle upon any of the streets of the city."
3. The Rock Hill Noise Ordinance fails to give fair notice to citizens as required by the Due Process Clause of the Fourteenth Amendment because its provisions do not contain ascertainable standards.
4. The Rock Hill Noise Ordinance is unconstitutional on its face because of vagueness as the terms "loud," "excessive," and "unusual" require persons of average intelligence to guess at the meaning of those words.

5. The Rock Hill Noise Ordinance is unconstitutional as applied because law enforcement officers applied and enforced the ordinance against the Defendant in a subjective and selective manner.
6. In support of the Motion, the Defendant relies on Tanner v. City of Virginia Beach, 674 S.E. 2d 848 (VA 2009), and Connally v. General Construction Co., 269 U.S. 385 (1926).

FOR ALL THE ABOVE REASONS the Defendant moves the Court to dismiss the charge of violating the Rock Hill Noise Ordinance.

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Rock Hill, South Carolina
March ____, 2010