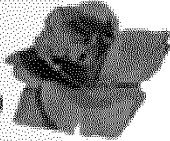


# FACSIMILE TRANSMITTAL SHEET

# OPUSARTS



PRESIDENT AND OWNER, MARIJAYN DUCHENE BEA

FROM MARIJAYN DUCHENE BEA  
BOARD OF GOVERNORS

OPUSARTS LLC.

1144 OTTAWA AVENUE  
SAINT PAUL, MN 55118-2008  
E-MAIL: OPUSARTS@AOL.COM + 651-457-4376

Monday, August 12, 2002

From: 651 457 4376

01:05:10 PM

To: Korrine Land Levander, Gillen and Miller 651450 7384

Page 1 of 6



To Korrine Land Levander,  
Gillen and Miller



651450  
7384

Monday, August 12, 2002

FROM



651 457 4376

01:05:10 PM

Page 2 of 6



*and: MJ Duchene BFA, 1144 Ottawa Avenue, Saint Paul,  
MN 55118-2008 • 651 457 4376 • E-mail: OpusArts@aol.com*

8/12/02

TO: KORRI LARSON LAND

PLEASE INCLUDE THE ATTACHED EXHIBITS  
33 AND 34. THEY ARE ALSO POSTED  
ONLINE:

**To download these documents in acrobat Reader format go  
to:**

**<http://www.angelfire.com/mn3/abuseofpower/historyrightsvio.html>**

**OR BY FOLLOWING WSP LINKS AT:**

**WWW.DDAWEB.ORG**

THE ATTACHED DOCUMENTS CLARIFY, AGAIN IN CASE  
YOU HAVE FORGOTTEN THE CASE LAW, THE  
AUTHORITY BY WHICH GIVING CRIMINAL CITATIONS OR  
ACTING UNDER CRIMINAL STATUTES IS LIMITED.

CORDIALLY,

M J DUCHENE BFA

*EXHIBIT E***EXHIBIT 33****TELEPHONE MESSAGE LEFT BY WEST ST. PAUL MAYOR  
1997**

BY MICHAEL BISANZ:

Yes, Mr. Verhagen, Mike Bisanz returning your call. Your kind of smart aleck call, and I appreciate you keeping me informed with what's going on. I only wish I had been around to talk to those reporters and newscasters. My understanding that the news stories that you generated and thought that it would help your client, the people came out and saw Mary Duchene's, Mary Jane Duchene's house and was devastated by what they saw. I hope you've gotten out since and seen that. Not only do we have the right, but we have the obligation to pass--we're not passing ordinances, we're passing resolutions to clean up property. Not only do we have the right to do that, we have the obligation to do that for every citizen in our city. And we will continue to do that, whether it's with Ms. Duchene or any other property. That is what I am proud that we do in our city, and I don't care whoever you talk to in other cities. You must have asked the wrong question. Because if they went over to Mary Jane Duchene's house, they would do nothing but agree with us that that's a public nuisance and ought to be abated. As to the newscasters and everybody else, so you keep fighting the good battle. I think everybody ought to keep us on our toes and make sure that we do what is legal and proper whether it's with Ms. Duchene or anyone else. I'm not looking to roll over



with Ms. Duchene or anyone else. I'm not looking to roll over any citizen in our city, as I told you before, and Ms. Duchene is one of them.

I will not keep being passionate about what I do. I'm sure you're very passionate about what you do, and I will continue to be passionate. And if you want to continue to call me and kind of push me to my limit, well, keep it up; and we'll have some fun, Mr. Verhagen. But I do what I do because I love it, I enjoy it, and I do it well. And I'm passionate about it. And when somebody calls me up and tries to, to infer that having a couple feet of manure in somebody's backyard is appropriate in the city limits of my city, ah, I'll have that conversation all day long.

Thanks of calling. Bye now.

**(THIS CALL TOOK PLACE AT 12:33 P.M.)**

*Transcribed by  
Adrianne Lemaon 7/15/97*

**EXHIBIT 34**

STATE OF MINNESOTA  
COUNTY OF DAKOTA

IN DISTRICT COURT  
FIRST JUDICIAL DISTRICT

-----  
The City of West St. Paul,

Plaintiff

vs.

Mary Jane Duchene,

Defendant

NOTICE OF MOTION  
AND MOTION

No. T2-97-24334

-----  
TO THE WEST ST. PAUL CITY ATTORNEY, GREETING:

You will please take notice that, on September 22, 1997, at 9:00 A. M., or as soon thereafter as a hearing can be held, before such judge as may be assigned, or at such other time as may be established by order of the court, the defendant through her counsel will make the following motion, to wit: That the complaint filed on April 14, 1997, be dismissed. So moved,

Because the said complaint contains no accusation or charging language, distinct from the statement of probable cause, consisting of a statement of the essential facts constituting a public offense or public offenses charged or sought to be charged, contrary to Rules 2.01 and 2.03 of the Minnesota Rules of Criminal Procedure;

Because the said complaint contains no proper citation of any statute, ordinance, rule, or regulation which the defendant is alleged to have violated, contrary to Rules 2.03 and 17.02 of the Minnesota Rules of Criminal Procedure; and

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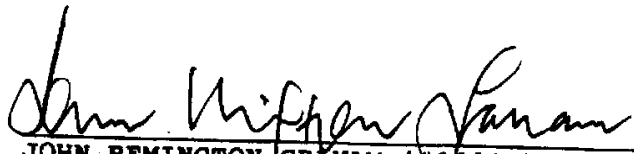
- 2 -

Because the said complaint fails to set forth an accusation in separate counts for separate offenses charged or sought to be charged, contrary to Rule 17.02 of the Minnesota Rules of Criminal Procedure.

As to required specificity of a criminal accusation, see, e. g., United States v. Cruikshank, 92 U. S. 542 at 558 (1876), quoted and reaffirmed in Russell v. United States, 369 U. S. 749 at 763-765 (1962), which in turn is cited with approval in State v. Grose, 387 N. W. 2d 182 at 189 (Minn. App. 1986).

As to the prohibition of duplicity in a criminal accusation (i. e., charging more than one offense in one accusation without separate counts for each offense charged), see, e. g., Creel v. United States, 21 F. 2d 690 (8 Cir. 1927), and Bratton v. United States, 73 F. 2d 795 (10 Cir. 1934). Cf. State v. Belfry, 353 N. W. 2d 224 at 226-227 (Minn. App. 1984).

The right to a specific accusation including separate counts for distinct offenses charged has been incorporated by the fourteenth amendment to the United States Constitution. See, e. g., Cole v. Arkansas, 333 U. S. 196 at 201 (1948), and Faretta v. California, 442 U. S. 806 at 818 (1975).



JOHN REMINGTON GRAHAM (#3564X)  
3840 Ballantrae Road #10  
Eagan, Minnesota 55122  
Telephone: 612-454-4537

Counsel for the defendant