

Attorney Evans Provides Latest Information About Goetten's DUI Dismissal And New Charge After That Case Dropped

December 21 2020 4:40 PM



JERSEYVILLE - Attorney Joshua Evans of the Unsell Law Firm, P.C., in Alton today released information about Jersey County State's Attorney Ben Goetten's DUI case in Jerseyville and a subsequent new Reckless Driving charge in the past week.

"Below, the first is a copy of the Court's Order on a Petition to Rescind a Summary Suspension on December 1, 2020," Evans said.

"A judge with no connection to Jersey County or Mr. Goetten ruled "there was insufficient evidence for the investigating officer to have reasonable grounds to believe the Defendant was driving under the influence," Evans said. "This Order was entered December 7, 2020, after a two-hour hearing. After this Order was entered, the prosecution filed a new charge of reckless driving. This new charge stems from the same incident leading to Mr. Goetten's original arrest.

"Rather than dismiss the DUI, the prosecution has doubled-down and filed a new Reckless Driving charge which will not be supported by the evidence and is vaguely grounded in law," said Evans.

"The public should know a prosecutor's job is not to seek convictions; rather, a prosecutor is to seek justice. If justice supported a charge of reckless driving, the charge would have been brought at the outset. The fact it was not brought at the outset, evidences the weakness of this prosecution and the lengths the prosecutor is willing to go to secure a conviction on anything-justice be damned."

Evans concluded: "Mr. Goetten has filed a Motion to Dismiss the latest charge, and assuming these charges remain, we will ask for the soonest trial available. Upon a fair and impartial trial, I believe Mr. Goetten will be exonerated."

In the Circuit Court of the seventh Judicial Circuit Jersey County, Illinois

The People of the State of Illinois as Plaintiff v. Benjamin Goetten as Defendant.

This matter comes before the Court on Defendant's Petition to Rescind Statutory Summary Suspension. A hearing on the Petition was held on December 1, 2020. The State appeared through counsel, Assistant Attorney General Heidi Epperson. The Defendant, Benjamin Goetten, appeared through counsel, Joshua R. Evans of The Unsell Law Firm, P.C. and Bryce S. Joiner, of Joiner Law Office. The Court took the matter under advisement and after having considered the arguments, evidence, case law, and all relevant statutory factors presented by the parties makes the following findings:

1. Based on the testimony of the arresting officer of the Jersey County Sheriffs Office, who was called as an adverse witness, the Defendant met his burden and established a prima facie case for rescission. The burden then shifted to the State to show that the suspension was justified.
2. The State presented no additional evidence in rebuttal.

3. There was insufficient evidence for the investigating officer to have reasonable grounds to believe that the Defendant was driving under the influence of alcohol.

a. Evidence of a 911 call was suppressed by the court and not allowed to be presented at the hearing. This record was suppressed because it was not disclosed by the Jersey County Sheriff's Office to the Defendant in a timely manner.

b. The investigating officer sought out and located the Defendant's vehicle traveling on Hollow Avenue in Jerseyville, Illinois. The arresting Officer testified that he followed the vehicle for three blocks between Baxter Avenue and Liberty Street before initiating the traffic stop. During this time, the Officer testified that he observed the Defendant's vehicle cross the centerline several times.

c. There was no video of the alleged traffic violation or the stop to corroborate the arresting officer's observations. The lack of a video recording was not the result of a camera malfunction, but, rather, because of operator error. Although the dashcam in the squad car was working on the evening of October 22, 2020, there is no video of the alleged traffic violation or the stop because the arresting officer failed to log in to and activate the squad-car camera.

d. There was no evidence of alcohol consumption by the Defendant. Although the investigating officer detected an odor of alcohol emitting from the vehicle there was no evidence that the odor of alcohol was coming from the person or breath of the Defendant. Additionally, the investigating officer failed to ask the Defendant if he had consumed any alcohol that evening.

e. The investigating officer did not find any alcohol or empty containers in the Defendant's vehicle.

f. The investigating officer did not note the Defendant to have slurred speech.

g. The investigating officer did not note the Defendant staggering or being unsteady on his feet.

h. The investigating officer observed the Defendant have bloodshot eyes and lethargic movements but admitted under examination that this could be the result of it being after 10:00 p.m. on a work night.

i. There was less than ten minutes of investigation by the arresting Officer before the Defendant was placed under arrest.

j. There was no testimony by the arresting officer that based upon his observation at the traffic stop he was of the opinion that the Defendant was under the influence of alcohol.

4. The Defendant's suggestion of misconduct and/ or conspiracy in the Jersey County Sheriff's Office was not supported by any credible or admissible evidence and is not being taken into consideration by this court.

Now, therefore it is hereby ordered:

Defendant's Petition to Rescind Statutory Summary Suspension is Granted.

Dated: December 7, 2020

Associate Judge of the Circuit Court

New charge filed on December 16, 2020

In the Circuit Court of the seventh Judicial Circuit Jersey County, Illinois

The People of the State of Illinois as Plaintiff v. Benjamin Goetten as Defendant.

Kwame Raoul, Attorney General of the State of Illinois, in the name and by the authority of the People of the state of Illinois, charges that:

On October 22, 2020, at and in the County of Jersey in the State of Illinois, committed the offense of:

COUNT 1: RECKLESS DRIVING (CLASS A) in that said defendant drove a 2020 Toyota Tacoma on State Highway 16 in Jersey County, Illinois, with willful or wanton disregard for the safety of persons or property in that the defendant swerved all over the roadway in violation of 625 ILCS 5/11-503(a)(1), and against the peace and dignity of the said People of the State of Illinois.