

STATE OF MINNESOTA

DISTRICT COURT
FELONY DIVISION

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

State of Minnesota,

)

**NOTICE OF MOTION TO DISMISS
IN THE INTERESTS OF JUSTICE**

Plaintiff,

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MNCIS Case No. 27-CR-19-22615

-vs-

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Anne Marie Riley,

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Defendant.

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TO: THE COURT; THE HONORABLE DANIELLE MERCURIO, HENNEPIN
COUNTY JUDICIAL OFFICER; AND ANNELIESE MCCAHERY,
ROBBINSDALE CITY ATTORNEY.

NOTICE OF MOTION

PLEASE TAKE NOTICE that on Tuesday, January 16, 2024, at 1:30 p.m., or as soon
thereafter as counsel may be heard, Anne Riley, will seek the following relief:

MOTION

Anne Riley moves this court to dismiss this matter in the interests of justice pursuant
to Minnesota Statute Section 611.46, which states in relevant part, subd. 8 (d), Counsel for
the defendant may bring a motion to dismiss the proceedings in the interest of justice at any
stage of the proceedings.

From on or about July 27, 2019, Anne Riley was charged with Count 1-Gross
Misdemeanor Obstruct Legal Process – Interfere w/Peace Officer; Count II – Misdemeanor
Obstruct Legal Process – Interfere w/Peace Officer, Count III – Misdemeanor Uninsured
Vehicle and Count IV – Driver’s License – Driving After Revocation. According to MGA,
in the last four and ½ years since the alleged offense, Anne Riley has not had other offenses

charged besides 2 litter citations. Anne Riley's Date of Birth is December 16, 1962, and she is currently 61 years old.

The court ordered a R.20.01 evaluation on or about August 31, 2023. Ms. Riley cooperated with the evaluation and an opinion of incompetent has been offered by the examiner in a report dated November 1, 2023. The examiner opined that that there is no available information indicating that A. Riley would be an appropriate candidate for civil commitment.

Minnesota law confers discretionary authority upon a district court to dismiss a case "on an action either of its own motion or upon motion of the prosecuting attorney and in furtherance of justice." Minn. Stat. § 631.21. When a district court dismisses a criminal case pursuant to Minn. Stat. § 631.21, it is not limited to findings of abuse of discretion or insufficient evidence. District courts "have express and implied supervisory powers over matters that come before them," and they may dispense with cases accordingly. *State v. Lopez*, 538 N.W.2d 705, 707 (Minn. 1995) (Randall, J. concurring). "The trial courts have the inherent power to state that even though there is probable cause to believe that the crime was committed and the matter could proceed to trial, they are going to throw it out (and this power can be exercised even during the course of the trial) because our constitutional concept of due process for our citizens mandates that this case against this citizen proceed no further." *Id.*

Moreover, the Criminal Justice system has finite resources and Minnesota Rule of Criminal Procedure 1.02 notes "[t]hese rules are intended to provide a just determination of criminal proceedings and ensure a simple and fair procedure that eliminates unjustified expense and delay." This is a matter that has spanned over four ½ years, A. Riley has not had subsequent crimes charged besides two litter citations, the opinion offered is incompetent and the examiner does not believe that A. Riley meets criteria for commitment. So, when the

court analyzes and balances issues here, when considering public safety issues and limited court resources, the court's analysis should lead to dismissal.

This motion is based upon all relevant files, case law, statutes, and arguments of counsel.

RESPECTFULLY SUBMITTED,

OFFICE OF THE HENNEPIN COUNTY PUBLIC DEFENDER
MICHAEL BERGER - CHIEF PUBLIC DEFENDER

By: _____/s/_____
Susan Herlofsky
Attorney for Defendant
Attorney License No. 247157
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Minneapolis, MN 55415
Telephone: (612) 348-9881

Dated: This 11th day of January 2024.

MINNESOTA
JUDICIAL
BRANCH