

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

SALEM DISTRICT COURT
DOCKET 2036CF

COMMONWEALTH
v.
DOMENIC B [REDACTED]
DOB: 6/8/1951, MA S89942748

MOTION TO RESTORE LICENSE

In the event of a dismissal of the OUI charge, defendant is entitled to and he requests an **immediate hearing** as required by G.L. c. 90 § 24. *See Common v. Richards*, 480 Mass. 413 (2018) and moves this Honorable Court to restore driving privileges.

As reasons therefor:

- 1) Prosecution of the matter has ended in Defendant's favor, namely, a DISMISSAL of all charges.
- 2) The legislature has established a statutory presumption in favor of restoration (M.G.L. c. 90 § 24).
- 3) The Commonwealth has not established by a fair preponderance that restoration of said license would endanger the public safety.
- 4) No other alcohol related cases are pending in any other court.

Respectfully Submitted, Domenic B
By his attorneys,

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2/10/21 - After hearing, the Court **ALLOWS** the defendant's Motion to Restore License. On January 10, 2020, the defendant was arrested for OUI-Liquor or .08%, Fourth Offense. His license was suspended for breath test refusal. On January 6, 2021, the Commonwealth filed a nolle prosequi. There is a rebuttable presumption that the license be restored, unless the Commonwealth establishes, by a fair preponderance of the evidence, that restoration of the license would endanger the safety of the public. *Commonwealth v. Richards*, 480 Mass. 413 (2018). The Commonwealth failed to meet its burden. The defendant was convicted of three OUI - Liquor offenses. However, most recent conviction was nearly twenty nine years ago, in 1992. The first and second convictions for the same offense were in 1990 and 1988. The Commonwealth did not introduce any evidence of the defendant's driving history or convictions after 1992. Accordingly, the defendant's Motion to Restore License is allowed.

[Signature]
 F. J. [REDACTED]

A TRUE COPY, ATTEST:
[Signature]
 CLERK-MAGISTRATE