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February 21, 2011

The Honorable N. Lorrin Freeman
Wake County Clerk of Superior Court
PO Box 351
Raleigh, NC 27602-0351

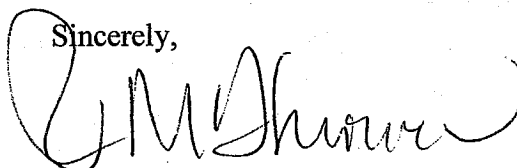
RE: *Rodney Dale Class v. Dallas Police Department, et al*
Wake County File No.: 11 CVS 1559

Dear Ms. Freeman:

Enclosed please find an original and one copy of the Respondent Dallas Police Department's Motion to Dismiss to be filed in the above-referenced matter. It would be appreciated if you would file the original and copy and return the second copy to me with the filing date stamped thereon. A self-addressed envelope is enclosed for your convenience.

Please contact me should you have any questions or need additional information. Thank you for your time and assistance in this matter.

Sincerely,



Pennie M. Thrower
Town Attorney
Town of Dallas, NC

Enclosures

cc: Rodney Dale Class, Petitioner
PO Box 435
High Shoals, NC 28077

NC Department of Transportation
William P. Hart, Jr., Asst. Attorney General
N.C. Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602

NC Motor Vehicles License Plate Agency
Respondent
1471 E Franklin Blvd
Gastonia, NC 28054

STATE OF NORTH CAROLINA
 COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
 SUPERIOR COURT DIVISION
 FILE NO.: 11 CVS 1559

RODNEY-DALE; CLASS,)
 Petitioner,)
)
)
 v.)
)
 DALLAS POLICE DEPARTMENT, *et al.*,)
 Respondents.)
)

MOTION TO DISMISS

NOW COMES Respondent Dallas Police Department, by and through its counsel Pennie M. Thrower, Town Attorney, and moves to dismiss this matter as follows:

MOTION TO DISMISS
LACK OF SUBJECT MATTER JURISDICTION

Respondent Town of Dallas moves to dismiss this matter for lack of subject matter jurisdiction, pursuant to Rule 12(b)(1) of the North Carolina Rules of Civil Procedure and Chapter 150B of the General Statutes.

Petitioner seeks review of a final agency decision pursuant to N.C. Gen. Stat. §150B-43, *et seq.* Under N.C. Gen. Stat. §150B-51(d), this Court is expressly permitted to enter “any order allowed by G.S. 1A-1, Rule 12(c) or Rule 56” since Petitioner’s petition was dismissed for lack of subject matter jurisdiction by Administrative Law Judge J. Randall May.

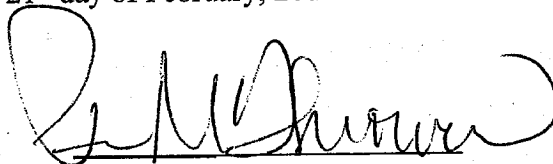
The Dallas Police Department, as a division of the Town of Dallas, a local unit of government, is defined as “not an agency” subject to the contested case provisions of Chapter 150-B of the North Carolina General Statutes. See N.C. Gen. Stat. §150B-1 which states that the purpose of this Chapter is to establish a uniform system of administrative rule making and adjudicatory procedures for agencies, read with N.C. Gen. Stat. §150B-2(1a) which states that a local unit of government is not an agency.

Because there is no subject matter jurisdiction over Respondent under the contested case provisions of Chapter 150B, this Court similarly cannot exercise jurisdiction over Respondent under Petitioner’s appeal. Accordingly, the Respondent Dallas Police Department respectfully requests this Court dismiss this matter with prejudice.

WHEREFORE, Respondent respectfully prays for the following:

1. That this matter be dismissed with prejudice for lack of subject matter jurisdiction.
2. That further proceedings under the Administrative Procedure Act be stayed pending a ruling on Respondent's Motion to Dismiss.
3. That the costs of this action be taxed to Petitioner.
4. Any other or further relief which is deemed just and proper.

Respectfully submitted, this the 21st day of February, 2011.



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N.C. Bar No.: 23286

CERTIFICATE OF SERVICE

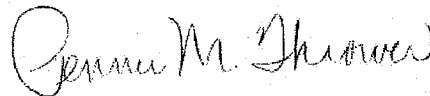
I hereby certify that I have this day served the foregoing MOTION TO DISMISS on Petitioner and all other parties in this matter by depositing a copy in the United States mail, first-class postage prepaid, addressed to him as follows:

Rodney-Dale Class, *Pro Se*
Petitioner
Post Office Box 435
High Shoals, North Carolina 28077

North Carolina Motor Vehicles License Plate Agency
Respondent
1471 East Franklin Boulevard
Gastonia, North Carolina 28054

North Carolina Department of Transportation
Respondent
William P. Hart, Jr.
Assistant Attorney General
N.C. Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602

This is the 21st day of February, 2011.



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