



TOWN OF FALLSBURG
JUSTICE COURT
P.O. BOX 2019
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IVAN KALTER, JUSTICE

ROBERT SCHEINMAN, JUSTICE

JUSTICE COURT TOWN OF FALLSBURG
SULLIVAN COUNTY STATE OF NEW YORK

-----X
PEOPLE OF THE STATE OF NEW YORK,

-against-

WILLIAM BARBOSA,

Defendant.
-----X

DECISION

Defendant is charged with Aggravated Harassment pursuant to Penal Law §240.30(1)(a) which allegedly occurred August 20, 2012. It is alleged that Mr. Barbosa signed a traffic payment correspondence with the words "FUCK YOUR SHITTY TOWN BITCHES" written across the top.

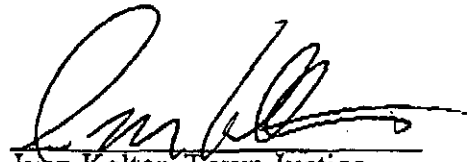
The aforesaid section of law is intended to prohibit communication "...with a person, anonymously or otherwise, by telephone or by telegraph, mail or any other form of written communication, in a manner likely to cause annoyance or alarm."

Defendant now moves to dismiss together with other relief.

Without doubt the Defendant's comment was crude, vulgar, inappropriate, and clearly intended to "annoy". Nevertheless, it is not a threat, it does not contain "fighting words", or create an "imminent danger". While it might seem to fall within the four corners of the aforesaid statute, it is nevertheless subservient to the First Amendment of the United States Constitution which provides for and allows a broad range of "free speech" in the nature of opinion and public comment.

Defendant has submitted an extensive brief with numerous citations. However, no citation is necessary for this Court to determine that the language under the circumstances here, offensive as it is, is protected. The charge is dismissed.

Dated: South Fallsburg, New York
March 22, 2013



Ivan Kalter, Town Justice

TO:

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