

State of New Hampshire
Supreme Court

NO. 07-_____

STATE OF NEW HAMPSHIRE

v.

GRAHAM THOMAS JENSEN

NOTICE OF MANDATORY APPEAL OF GRAHAM THOMAS JENSEN
Pursuant to Supreme Court Rule 7(1)(A)

By: Joshua L. Gordon, Esq.
Law Office of Joshua Gordon
26 S. Main St., #175
Concord, N.H. 03301
(603) 226-4225

State of New Hampshire Supreme Court

NOTICE OF MANDATORY APPEAL

This form should be used for an appeal from a final decision on the merits issued by a superior court, district court, probate court or family division court except for a decision from: (1) a post-conviction review proceeding; (2) a proceeding involving the collateral challenge to a conviction or sentence; (3) a sentence modification or suspension proceeding; (4) an imposition of sentence proceeding; (5) a parole revocation proceeding; (6) a probation revocation proceeding; (7) a landlord/tenant action or a possessory action filed under RSA chapter 540; or (8) from an order denying a motion to intervene.

1. COMPLETE CASE TITLE AND DOCKET NUMBERS IN TRIAL COURT

State of New Hampshire v. Graham Thomas Jensen
No. 06-CR-01960

2. COURT APPEALED FROM AND NAME OF JUDGE(S) WHO ISSUED DECISION(S)

Rochester District Court (*Susan W. Ashley, J.*)

3A. NAME & ADDRESS OF APPEALING PARTY

Graham Thomas Jensen
51 Messina Woods Dr.
Braintree, MA 02184

3B. NAME, FIRM, ADDRESS & TELEPHONE
NUMBER OF APPELLANT'S COUNSEL

Joshua L. Gordon
Law Office of Joshua Gordon
26 S. Main St., #175
Concord, N.H. 03301
(603) 226-4225
www.AppealsLawyer.net

4A. NAME & ADDRESS OF OPPOSING PARTY

State of New Hampshire

4B. NAME, FIRM, ADDRESS, & TELEPHONE
NUMBER OF OPPOSING COUNSEL

Office of the Attorney General
33 Capitol St.
Concord, NH 03301
(603) 271-3658

5. NAMES OF ALL OTHER PARTIES AND COUNSEL IN TRIAL COURT

Police Prosecutor:

Trooper James Downey
New Hampshire State Police Toop A
315 Calef Highway
Epping, NH 03042
(603) 679-3333

6. DATE OF CLERK'S NOTICE OF DECISION
OR SENTENCING

Conviction on August 31, 2007

DATE OF CLERK'S NOTICE OF DECISION
ON POST-TRIAL MOTION

Order of incarceration on September 10,
2007

7. CRIMINAL CASES: DEFENDANT'S
SENTENCE AND BAIL STATUS

Mr. Jensen was found guilty of a Class B
Misdemeanor, Theft of Services, for insisting
on paying with a toll token his turnpike toll at
the Rochester toll booth on Route 16.
Sentence was \$150 fine. He refused to pay
the fine, and was incarcerated for 3 days.

8. APPELLATE DEFENDER REQUESTED?

No.

9. IS ANY PART OF CASE CONFIDENTIAL? IDENTIFY WHICH PART AND CITE AUTHORITY

There is no known basis for confidentiality.

10. IF ANY PARTY IS A CORPORATION, NAMES OF PARENTS, SUBSIDIARIES & AFFILIATES

n/a

11. DO YOU KNOW ANY REASON WHY ONE OR MORE SUPREME COURT JUSTICE WOULD BE DISQUALIFIED FROM THIS CASE?

There is no known basis for recusal.

IF YES, FILE MOTION FOR RECUSAL, SUPREME COURT RULE 21A

12. IS A TRANSCRIPT OF TRIAL COURT PROCEEDINGS NECESSARY?

Yes.

IF YES, COMPLETE TRANSCRIPT ORDER FORM

13. LIST SPECIFIC QUESTIONS TO BE RAISED ON APPEAL, EXPRESSED IN TERMS AND CIRCUMSTANCES OF THE CASE, BUT WITHOUT UNNECESSARY DETAIL. STATE EACH QUESTION IN A SEPARATELY NUMBERED PARAGRAPH.

I. Did the Court err in convicting Mr. Jensen for Theft of Services when he was ready and able to pay his turnpike toll with toll tokens that he had bought from the State of New Hampshire for that purpose?

II. Did the State of New Hampshire impair Mr. Jensen's federal and state constitutional rights to contract, as well as his statutory and common law rights of contract, by not accepting as payment for a turnpike toll, tokens that it sold to him for that purpose?

III. Did the State of New Hampshire fail to perform its contractual duties to Mr. Jensen by not accepting as payment for a turnpike toll, tokens that it sold to him for that purpose?

IV. Was the State of New Hampshire in violation of the Consumer Protection Act by mandating the expiration of toll tokens, which are gift certificates and thus incapable of expiration by operation of the statute?

V. Are toll tokens a form of currency issued by the State of New Hampshire for the limited purpose of paying turnpike tolls, such that they must be accepted by the State for that purpose?

14. CERTIFICATIONS

I hereby certify that, upon information and belief, every issue specifically raised has been presented to the court below and has been properly preserved for appellate review by a contemporaneous objection or, where appropriate, by a properly filed pleading.

Joshua L. Gordon, Esq.

I hereby certify that on or before the date below copies of this notice of appeal were served on all parties to the case and were filed with the clerk of the court from which the appeal is taken in accordance with Rule 26(2).

October 1, 2007

Joshua L. Gordon, Esq.

ATTACHMENTS

(1)	COMPLAINT (Mar. 23, 2006)	7
(2)	CLERK’S NOTICE (Sept. 10, 2007)	8
(3)	ORDER (ordering incarceration) (Sept. 10, 2007)	9

TRANSCRIPT ORDER FORM

INSTRUCTIONS:

1. If a transcript is necessary for your appeal, you must complete this form.
2. List each portion of the proceedings that must be transcribed for appeal, e.g., entire trial (see Superior Court Administrative Rule 3-1), motion to suppress hearing, jury charge, etc., and provide information requested.
3. Determine the amount of deposit required for each portion of the proceedings and the total deposit required for all portions listed. Do not send the deposit to the Supreme Court. You will receive an order from the Supreme Court notifying you of the deadline for paying the deposit amount to the trial court. Failure to pay the deposit by the deadline may result in the dismissal of your appeal.

LIST EACH PORTION OF CASE PROCEEDINGS TO BE TRANSCRIBED						
Date of Proceeding	Type of Proceeding	Length of Proceeding	Name of Judge(s)	Steno/Recorded	Previously Prepared?*	Deposit
8/31/07	Trial	½ day	Ashley, J.	Recorded	no	\$450
DO NOT SEND DEPOSIT AT THIS TIME						TOTAL DEPOSIT: \$450

SCHEDULE OF DEPOSITS

<u>Length of Proceeding</u>	<u>Deposit Amount</u>
Hearing or trial of one hour or less	\$ 175
Hearing or trial up to ½ day	\$ 450
Hearing or trial of more than ½ day	\$ 900/day
Previously prepared portions	Number of pages x \$.50 per page per copy if additional copies are needed

NOTE: The deposit is an estimate of the transcript cost. After the transcript has been completed, you may be required to pay an additional amount if the final cost of the transcript exceeds the deposit. Any amount paid as a deposit in excess of the final cost will be refunded. The transcript will not be released to the parties until the final cost of the transcript is paid in full.

* For portions of the transcript that have been previously prepared, indicate number of copies that were prepared.