

GARDEN STATE CLE LESSON PLAN

A CLE CREDIT COURSE

FREE DOWNLOAD LESSON PLAN AND EVALUTION

TRAFFIC SENTENCING

WITH

**HON. PAUL CATANESE (RET.)
PRESIDING JUDGE
MERCER COUNTY VICINAGE**

AND FEATURING

ROBERT RAMSEY, SENIOR INSTRUCTOR

Program Description

TBS BY RR

I. INTRODUCTION

- **Garden State CLE**
- **Panelists**
[Hon. Paul Catanese (Ret.),
Presiding Judge,
Mercer County Vicinage
and Robert Ramsey, Senior Instructor]
- **Scope of Topic**
[1:48 duration and
pages of Lesson Plan materials]

II. THE DISPOSITION OF TRAFFIC CASES

- **Typically by plea**

III. BALANCING GOOD JUSTICE WITH FAST JUSTICE

- **Example of speeding ticket of 100 MPH**

IV. PEOPLE IN THE SYSTEM

- **The stratum of DP offenders differs from traffic offenders. Anyone can get a traffic summons**
- **The Judge sees people of every culture**

V. DOES THE CASE REQUIRE COUNTY LEVEL REVIEW?

- **Death and personal injury cases**

VI. CRIMINAL CHARGES ARE SOMETIMES A POSSIBILITY

- **EXAMPLE: Leaving the scene with personal injuries**
- **Court puts burden on the municipal prosecutor to determine whether the county wants jurisdiction**
- **EXAMPLE: Second offense of Driving on the revoked which is also a 4th degree offense**
- **Court to determine whether an evaluation is necessary or has been made by the County**

VII. WHEN JUVENILES COME TO COURT

- **Is transfer to the family part proper?**

VIII. DON'T BE AFRAID TO ASK QUESTIONS

- **Have your Prosecutor call the County Prosecutor as, if and when necessary and have the call made asap for prompt disposition of potential problems**

IX. MOTOR VEHICLE HISTORY AND CERTIFIED ABSTRACT

- **Bench access is possible during court sessions, the court staff will be able to use split screens for simultaneous review**
- **Driving History: shows even rescinded suspensions, shows every interaction with the MVC like visits there etc.**
- **Abstract: shows events like issuance of tickets and convictions**
- **The Judge needs to look at every Driver's History in every driving case**
- **Talk to your Defendants about their driving history before sentencing; discuss sentencing ramifications by looking at the history. Fines, etc are affected.**
- **You might save a defendant a lot if you offer him or her the opportunity to pay a ticket in another jurisdiction or venue**
- **The abstract is the essential document at sentencing**
- **Highlighting by the Prosecutor helps the Court to render a more just sentence**

X. ADVICE FOR PROSECUTORS

- **Reviewing the submitted deal with the Court on the record secured a positive response from this Judge in the past**
- **Prosecutors: Don't propose extraordinary sentencing pleas by way of the plea memo, come into court and speak with the Judge**

XI. STATE V. MEDINA ISSUES

- **If there will be a trial, the Judge can recuse himself or separate himself from the pretrial evidence he reviewed and proceed with the case**
- **State v. Medina,**

XII. VICTIM PARTICIPATION

- **Provided for in both the Criminal Code and in Traffic Legislation**
- **Hear from them**
- **Thank the victim/witness**

XIII. PLEA ALLOCUTION

- **Get facts, not conclusions**
- **Lead the Defendant**
- **To accept a plea, the Defendant must say what s/he did**

XIV. CIVIL RESERVATIONS

- **Liberally granted in most cases absent extraordinary circumstances**
- **In egregious cases, the Court may prohibit the Defendant from the protection of the civil reservation rule**

XV. COLLATERAL CONSEQUENCES

- **In small cases, this Judge considered it less important**
- **But, with more serious offenses, the collateral consequences must be addressed. Example: MVC insurance surcharges for DWI, loss of public employment, removal from the United States, loss of driving or professional license, etc.**

XVI. MERGER AND DISMISSAL

- **Charges “merged” subject the Defendant to All of the penalties of all of the merged statutes**
- **Careless/reckless driving case, 7 points?**
- **Caselaw states that the Court must impose fines for the GREATER of the merged offenses, not the lesser amount**

XVII. AGGRAVATING AND MITIGATING FACTORS

- **Rule 7:9-1 (c) analysis of Aggravating and Mitigating factors in the sentence**
- **Grew out of State v. Moran**

XVIII. PROBATION

- **Terms and conditions can include a safe driving course for example**
- **Threat of jail for failure to comply is a great motivator for the Defendant**
- **All Defendants will be granted an opportunity to explain noncompliance**

- **At the end of Probation, the Court has run a new Abstract. If violations, the Defendant is called to answer to the Court**

XIX. RESTITUTION

- **Friedland hearings, etc,**
- **Restitutions hearings are conducted per the Friedland case. Is it in the interests of justice for restitution to be paid and is the amount fair?**
- **It can be paid via the Court's system**
- **Probation Department is far too busy to attend to this process. It is attended to "in house" at the MC**
- **Victim is sworn, documents submitted, testimony elicited**

XX. JAIL AS A SENTENCING TOOL

- **It is unusual in a traffic context**
- **The THREAT of jail is a more effective tool than the actual imposition of jail time**

XXI. LOSS OF LICENSE

XXII. MAXIMUM FINES

- **Sometimes the maximum is not the best choice**

XXIII. DEATH CASES

- **Carelessness and death cases**
- **Family members lost someone that they love**
- **Victims appear and want to be heard**
- **Don't permit a circus to occur**
- **Municipal court is, for those in the example, the only emotional outlet**