

Municipal Court Procedural Defenses Part One

In addition to being not guilty, there are procedural defenses that are available to defendants in Municipal Court. The two examples I would like to look at in this paper are discovery and probable cause.

New Jersey Court rules allow municipal court defendants to obtain discovery. A broad variety of information can be obtained; statements from the persons involved, the witnesses and the issuing officer. Other examples are certifications of the equipment being used, training certification of the issuing officer, lab certifications, books and other materials relied on by the state. The Municipal Prosecutor must provide this information.

If the State does not provide the materials requested, there are a variety of sanctions ranging from postponement and costs to outright dismissal. Failure to provide the information can also give enough leverage to get a very good plea deal.

In order to conduct a stop, the issuing officer must have cause. While the standards are slightly different in automobile stops, there still must be a reason to stop the vehicle, such as a moving violation, erratic driving, etc.

Without cause any evidence seized or discovered is not admissible. This is important because without evidence the matter cannot proceed. In DUI/DWI cases, controlled dangerous substances cases, weapons charges and various motor vehicle offenses this will lead to the charges being dropped.

To assert these defenses the Court Rules do have a strict procedure. While one has a right to represent oneself, given the complex nature of the rules, it is recommended that Defendants retain counsel to protect themselves