

“Under the Trooper’s Hat”

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Nearly every state trooper, at some point in their career, will be accused of entrapment by a person stopped for a traffic violation. Often the person alleging entrapment does not have a clear legal understanding of entrapment. To many, it is a legal buzzword taken from a television drama used as an attempt to get out of a ticket or even to intimidate a law enforcement officer.

According to North Dakota Century Code 12.1-05-11 (2), entrapment occurs when “the law enforcement agent induces or encourages and, as a direct result, causes another person to engage in conduct constituting such a crime by employing methods of persuasion or inducement which create a substantial risk that such crime will be committed by a person other than one who is ready to commit it.”

One example of entrapment would be when an officer encourages two motorists to engage in a street race. Once the race is completed, the officer arrests both for reckless driving.

Another example would occur if you are approached by someone in a bar that pressures you to buy drugs. You say, “No, I don’t do drugs.” But he keeps pressuring you to buy because the drug money is going to treat a sick family member. You buy the drugs and then arrested because he is an undercover officer.

I was once accused of entrapment by a driver traveling more than 100 mph south of Napoleon. I had been parked at a low point between two hills. The driver stated I was entrapping him by being parked in an area where he could not see me when he crested the hill. He was unable to explain to me how I encouraged and enticed him into making the decision to speed by being parked there.

When police set up a “speed trap,” it is not entrapment. Police are not enticing motorists to speed or commit traffic violations. Upon seeing a law enforcement vehicle, many drivers reduce speed as the site of the vehicle reminds them to comply with speed limits. Law enforcement officers catch violators, who under their own free will, decide to speed or commit another traffic violation. Usually a “speed trap” is simply extra patrol located where frequent violations occur, crashes have resulted from violations, or issues have been brought to the attention of law enforcement by concerned citizens.

If a law enforcement officer has actively lured you or encouraged you to break a law that you otherwise would not have committed, entrapment is a valid defense in court.

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