

OM	We help judicial discretion to be impartial keeping democracy truthful because due process of law does not end until the Court is impartial to make unbiased judicial rightdoings by laws correctly applied ("Justice") end biased judicial wrongdoings by laws misapplied ("Justicide"). It's the law.	ॐ
08.10.2020	LAW OFFICES OF LALIT K JAIN ESQ Practice of Law in NY State, US Tax and District Courts, US Supreme Court, and all Courts in India.	Fon: 718-255-6576 Cell: 718-316-5921 Fax: 347-637-5498

This *self-curing* memorandum of law with endnotes¹⁻¹⁰ ("**LKJMOL**") *proves* use of judicial discretion with absolute judicial immunity for legally enforceable *valid* final closures of all cases *is mandatory* to *enforce* popular belief in *proactive* rightdoing *State Confirmed Security*, end scams, lies, traffickings in Justice, humans, etc. and *make* injurers make injureds whole *doing no wrong forced to live as bastards*.¹

Contrarians' unpopular belief in *insane jurists*² for legally unenforceable *void* closures as *proactive* and/or *reactive* wrongdoing *State Created Danger is evil thus immunized politics* violating laws, always.³

By law, **LKJMOL** on *self-correcting thus infallible system is Godsent breaking news* no matter what laws and facts of the cases are. *It will keep* going viral as a matter of public policy and procedure *until* everyone's One Creator's unbiased properly stated and secured rule of law (*sperm+egg=father*) *enforces* everyone's privacy, safety and security as Justice⁴ with transparency⁵ and *convicts* the guilty⁶ to include illegitimate fathers ("**Bastard Fathers**") using *weaponized* Hon Penises or activist poles causing injuries³ that are irreversible and irreparable forcing women to live and endure lives of multifunction passive holes.⁷

By law, using evidence and Court-approved *truthful advocacy* for *truthful law enforcement* of *Justice* by laws correctly applied *proves acting* under the law thus with jurisdiction and authority in law to *end using excuses*, *lies* ABA-approved *zealous advocacy*,⁸ etc. to act above the law thus without jurisdiction or authority in law for *Miscarriages of Justice* or *Justicides* by laws misapplied *enjoying delusional law enforcement*⁹ misusing taxes in sextillions¹⁰ to make innocents sacrificial lambs as *judicial violence*.^{3,4}

By law, *insane* sexual-predators, politicians, jurists, priests, etc. are sexual, political, judicial, lexical (legal), spiritual, moral and ethical predators *violating* marriage and divorce ("**MAD**") laws to abuse and seed women besides their own wives, unwed women, etc., deny undeniable paternities, enjoy wrongful convictions of babies doing no wrong as issues, wards of States and illegitimate babies ("**Bastard Babies**") and enjoy corruptions, compromises, wrongful convictions, insecurity, guilty pleas, ... biases everywhere.

END JUSTICIDE

BEGIN JUSTICE

SAVE LIVES

SAVE TAXES

No. **96-57**

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1995

♦

ANDREW C. SCHIFFER,
Petitioner,

vs.

TARRYTOWN BOAT CLUB, INC.,
and its BOARD OF DIRECTORS individually,
JOHN MILLAR, KEVIN McDERMOTT,
ROBERT ROSSI, EDWARD THOMAS,
DONALD BRAINARD, THOMAS KENEALY,
ANTHONY ISMAILOFF, and JOHN PUFF,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO NEW YORK STATE COURT OF APPEALS

PETITION FOR A WRIT OF CERTIORARI

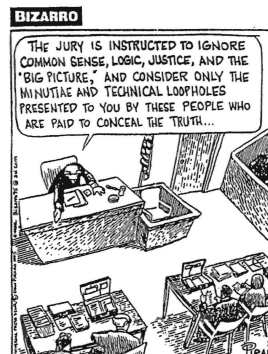
LALIT K. JAIN
Counsel of Record for Petitioner
61-22 Booth Street
Rego Park, N. Y. 11374-1034
718 476-9757

June 25, 1996 DOCKETED JUL 12, 1996.
DENIED DEC 02, 1996.

TWO UNSETTLING QUESTIONS

Judgments are, as it were, the sayings of the law, and are received as truth [even if not the truth].²

Personally ashamed but constitutionally constrained by oath to support our Constitutions WE THE PEOPLE still honor, Counsel presents *very* basic questions raised by the judicial truth as received and judicial satire as published.



² *Judicia sunt tanquam juris dicta, et pro veritate accipiuntur.*
Bl. Dict., (6th ed.), p. 850. [Emphasis added].

Claimer versus Disclaimer: *May it please the Courts* to please excuse **LKJESQ** for www.TruthIsPrudence.Com as his gift to Courts to please visit, begin to serve Justice by laws correctly applied and end committing Justicide by laws misapplied?

LKJESQ@LKJESQ.COM / 61-22 Booth Street Rego Park NY 11374-1034

A1-A4

Lalit K Jain
08/10/2020

¹ “[p20] ...**Court:** ... I do find the defendant *guilty* ...unless you [**Jain**] want to be heard... [p21] MR JAIN: Yes ... [p22]. **Court:**...Parties step up *real* quick. (Whereupon a *bench discussion* was held) ... **Court:** After *re-examining the statute more closely*...as **I reread it, many, many more times, my initial reading** of it was incorrect... [p23]... **I have to change** my verdict to *not guilty*. Case dismissed. ... ¶ **Court Officer:** *You’re free to go.*” *People v Onuorah, Judge Zoll*, NYS Queens County Criminal Court’s 25-page Oct 31, 2013 *Official Transcript* of Docket No. 2012QN040877 is on www.TruthIsPrudence.Com to verify that **LKJESQ** is truthful.

“...where a court has jurisdiction [to act *under* the law thus *with* jurisdiction, authority *and* immunity *in law* to *resurrect* Justice (“**Valid Sane Mandate**”)], it has a right to decide every question which occurs in the cause...But if it act [*above* the law thus *without* the law, jurisdiction or authority in law to *commit* Justicide (“**Void Insane Mandate**”)], its judgments and orders are regarded as **nullities**, all persons [*even police*]... executing [*nullities*] are considered *in law* as trespassers [*in law* (“**Outlaws**”) *with no executive immunity*].” *Elliott v Lessee of Piersol, 1828*, 26 US (1 Pet.) 328, 340-341.

“A *void act* ... may be attacked in any forum, state or federal, where its validity may be drawn in issue.” *Pennoyer v Neff, 1878*, 95 US 714, 732-733, *World-Wide Volkswagen Corp. v. Woodson*, 444 US 286.

...“*relief from void judgments is not subject to any time limitation...relief is not a discretionary matter; it is mandatory*...[that the injurers give back to the injureds all properties held in constructive and/or deemed trusts *with deterrent punitive awards* for Justice delayed/crucified (“**Mandatory Restitution**”) since *no deterrent punitive award is “grossly excessive,” TXO Production Corp. v Alliance Resources Corp.*, 1993, 509 US 443].” *Orner v Shalala, Colo. 1994*, 10th Cir, 30 F3d 1307, 1310.

As *nation’s top 9 jurists rarely correct “a properly stated rule of law [misapplied to immunize predators as Justicide for violating marriage and divorce (“MAD”) laws],”* Supreme Court of the United States (“SCOTUS”) **Rule 10**, so *Justice evidencing the Valid Sane Mandate* requires the **mandatory u-turn as the mandatory duty** to make guilty fathers doing wrongs violating MAD laws denying paternities *Bastard Fathers* and *penalize them as perjurers-injurers* creating the self-proving politically induced virus (“**PIV**” or “**Penis In Vagina**”) *infecting everyone* and *exonerate Bastard Babies* as innocent babies doing no wrong since day one.

The Oct 31, 2013 truthful jurist and sane John Zoll in unreported People v Onuorah and the 07.05.1990 truthless thus truthless and insane jurist William Zeck in reported Jassal v Jain, Ct App, 1994, 83 NY2d, inspired this self-curing LKJMOL for everyone’s free use to help truthless thus truthless insane scriptures and politically correct thus truthfully incorrect evil governments making babies bastards as 100% wrong upgrade into this Truthful Scripture and truthfully correct good governments making fathers bastards as 100% right. It requires sane jurists to penalize Court-appointed Guardians-as-Litem making babies bastards, begin protecting babies betrayed by insane jurists and even end scapegoating harmless motorists framed by zealous prosecutors.

The solution is not killing insane jurists and lawyers (William Deverell and Shakespeare) but keeping them sane to end using prosecution to the fullest extent of the law as prosecution to the fullest extent of the lie to immunize criminals and to end using the long arm of the law as the long arm of the lie from day one in the dark ages since before 1776 to today in the modern ages to prevent the next rape before it is too late to prevent it.

This self-cure from insane to sane judiciary has to ban misusing rule of law as a rule of lie since day one.

It mandates vacating as void Miscarriages of Justice aka Justicides committed by the High Court of Australia to self-confess, self-correct and enforce reconfirmed 2019 valid convictions of Rev George Pell as Justice.

² “[571] ... **Judges [aka jurists] personify** the justice system upon which the public relies to resolve all manner of controversy, civil and criminal. A society that empowers Judges to decide the fate of human beings and the disposition of property has the right to insist [572] upon the highest level of judicial [*sanity*]. A Judge’s conduct that departs from this high standard [*to insanity*] erodes the public confidence in our justice system so vital to its effective functioning ...That petitioner’s conduct was not directly related to his judicial office is immaterial ... (see, 22 NYCRR 100.2 [a] [“A judge *shall* respect and comply with the law and *shall* conduct *himself or herself* at all times in a manner that promotes public confidence in the integrity and impartiality of the *judiciary [to be always sane thus never insane]*”; emphasis added]; *Matter of Bailey*, 67 NY2d, at 62-63...). Nor does petitioner’s alleged motivation of deceiving his wife not the bank *mitigate the objective conduct*.... [573]...and Rudolph L. Mazzei is deemed removed [*as insane Judge*] from the office of [*sane*] Judge”

Matter of Mazzei v State Commission on Judicial Conduct, 1993, *Ct App*, 81 NY2d 568, 571-573.

- ³ “It has to be stated that though the accused [rapists] have not used any *external weapon*, they have used *more powerful weapon* i.e. *penis* with which each one of them have *caused the most grievous injuries* not only to the *body* of [their raped victim] but also to her *mind* which will *last forever* [as 24/7 misuse of *weaponized penises* legalized by *insane Courts* and *Insane Politics* until penalized as criminals by *sane Courts*].” Judge Dr Mrs Phansalkar-Joshi at <http://tinyurl.com/plghcp2>, page 202 in 232-page Apr 04, 2014 Decision, ¶336 In the Sessions Case No 846 of 2013 titled *The State of Maharashtra, Complainant v Vijay Mohan Jadhav aka Nanu, 18, et al., Accused. It is 100% shocking* that police *don’t stop/ticket/arrest/fine rapists* for trafficking law violations *causing injuries but not motorists* for traffic law violations *even when causing no injuries*.

“...if two *policemen see a rape [by weaponized penises]* and watch [it] just for their own [*inhuman*] amusement, no violation of the [*inhuman*] Constitution [*misapplied by insane jurists*] ... (*laughter*)” at <http://tinyurl.com/pnu9lrj> from 39:00 to 41:00 minutes in the Nov 2, 1988 Court Transcript, *May It Please the Court*...Transcripts of ... Landmark Cases before the SCOTUS...1993, p39-60 at p46-47, *DeShaney v Winnebago County* reported as 1989, 489 US 189. It proves that laws misapplied is for judicial scams (“*State Created Danger*”) ending laws correctly applied for ending judicial scams (“*State Confirmed Security*”).

- ⁴ *Everywhere, knowing* that DNA-matches, *backed by science*, do prove paternities as they do yet *saying* that marriages, *not backed by science*, do prove paternities as they don’t *is self-proving immunized insanity of jurists and forensic experts making* due process of law misused as due process of lie *violate* due process of life.

Correctly using scientific DNA-matches *has to genetically reconfirm* that *disgraced Bastard Fathers are the injurers disgracing Holy Babies as the injureds*. The baby is bastard legally enshrined (“*BIBLE*”) *violates* the infallible thus inviolable properly stated rule of law for 100% certainty of paternities and maternities as the two sides of the same one sex in privacy. *Learn and live in truth knowing Justice always insures nature*.

Conscionable jurists will shock no conscience to correctly use scientific DNA-matches as proof of paternities that they are and convict self-proving sexual predators denying paternities, help unconscionable jurists not shock any conscience to use unscientific marriages as proof of paternities that they are not, not acquit them and not make predators’ cult peoples’ culture to misuse “*lie*” as “*law*” in modern democracies same as in ancient Greece.

- ⁵ “... [565] In matters of *ethics, appearance and reality often converge as one*. See *Offutt v United States*, 348 US 11, 14 (1954) (“[J]ustice must satisfy the appearance [*and reality*] of justice”); *Ex parte McCarthy*, [1924] 1 KB 256, 259 (1923) (“[J]ustice should not only be done, but should manifestly and undoubtedly be seen to be done”). I do not see how the appearance of fairness and neutrality can obtain *if the bare possibility of a fair hearing [ending in Justicides]* is all that the law requires. *Cf. Marshall v Jerrico, Inc.*, 446 US. 238, 242 (1980) (noting the importance of “preserv[ing] both the appearance and reality of fairness,” which “generat[es] the feeling, so important to a [good] popular government, that justice has been done [*ending Justicides*]”) (Quoting *Joint AntiFascist Refugee Comm. v McGrath*, 341 US 123, 172 (1951) (*Frankfurter, J.*, concurring)). *Litely v US*, 1994, *Justice Scalia*, 510 US 540, 564-565, 114 S. Ct. 1147, 1162; *see also, Levine v US*, 1960, 362 US 610, 80 S. Ct. 1038, citing *Offutt v US*, 1954, 348 US 11, 14, 75 S. Ct. 11, 13; *see also, Ex parte McCarthy*...

“*Transparency*, clarity, and the avoidance of results that are contrary to *common sense* or are *arbitrary* are aspects of the *principle of legality* to be applied by the courts [*to make Justice end Justicides*]...”

R (Limbu) v Secretary of State for the Home Department, 2008, Blake J, EWHC 2261 (Admin), Para 65.

“...a long line of cases shows that it is ... of *fundamental importance* that [*truthful*] *Justice should not only be done, but should manifestly and undoubtedly be seen to be done*. ...What I find sad is the way in which standards of justice have been allowed to slip [*by insane jurists to be reversed and corrected by sane jurists*]...”

R v Sussex Justices ex parte McCarthy, 1924, Lord CJ Hewart, 1 KB 256, 259, Nov 9, 1923, All ER Rep 233.

- ⁶ *Guilty include zealous advocates as conspirators in the common law tradition of self-proving insanity*.

“Under...*universal sentiments of justice*, the principle [is] that no [one, *especially not jurists* deciding the fate of human beings and disposition of property] shall profit from [their] own inequity or take advantage of [their] own wrong [citing *Riggs and feel honorable, knowing it is dishonorable*, to *misuse* due process of law (lex in Latin) *to lie, justify lying and relying on lying on and off oath, commit Justicides*, and *desecrate* the sacred due process of sex (sex in Latin) given by everyone’s One Creator aka God as *toxic behavior* that shames Ivy League Law schools that make blood moneys in tuition fees in billions *producing lying lawyers and jurists*].”

Cardozo, J., 1921, *The Nature of the Judicial Process*, p. 41, which is *his toxic legal classic or judicial scripture*.

“... *The truth is* that we are facing a principle...with roots in the yet larger principle that no one shall be permitted to found any claim upon his own inequity or take advantage of his own wrong (*Riggs v Palmer*, [1989] 115 NY. 506[, 512]). *Imperator Realty Co v Tull*, 1920, Ct App, Chase, J., 228 NY 447, 457; Cardozo, J. (concurring in result), 453. “...*what law, human or divine [aka sacred]*, will allow him [or her in governments and institutions created by him or her] *to enjoy the [toxic] fruits of crime[s] by injurers.*” *Riggs, supra*.

7 Women birth men. Men protected by law rape even their own mothers aka M-----F----- *to-get-her for free sex?*

8 “...when an opposing [injured] party is *well represented [pro se or by truthful advocate acting under the law using evidence of injuries caused by injurers]*, a lawyer *can be [but does not have to be]* a *zealous advocate [acting above the law]* on behalf of a[n injurer] client ...and *assume* that justice is being done [using excuses that reconfirm the evidence not used by jurists miseducated and mistrained in the common law tradition].”

Model Rules of Professional Conduct: Preamble, A Lawyer’s Responsibilities ¶8, masterminded by the American Bar Association (“ABA”) *making judicial scams please conspiring SCOTUS*, President of the United States (“POTUS”), *Church, jurists, juries, lawmakers, pedophiles, sexual, lexical (legal), and judicial predators*.

“...ABA leaders address House of Delegates | President *defends* judiciary, *reviews* accomplishments | The ABA House of Delegates stood to applaud as ABA President Judy Perry Martinez gave a *robust [aka zealous] defense* of the [unconscionable] judiciary and prosecutors in her address to the House on Feb. 17[, 2020] at the Midyear Meeting in Austin, Texas. ¶Calling for an end to personal attacks on judges and prosecutors [*that is no help to become conscionable*], Martinez said, “no one, no one, should interfere with the fair administration of justice. And no one, no one, should have to live in fear for following the law and upholding our Constitution of the United States [*when correctly applied by conscionable jurists ending judicial scams since day one*].”

<https://www.americanbar.org/news/abanews/aba-news-archives/2020/02/house-of-delegates-speakers/>

“A *conspiracy* is a *partnership in criminal process*. *US v Kissel*, 1910, *Justice Holmes*, 218 US 601, 608. “The Constitution does not make *conspiracy a civil right*. [No judicial conspiracy. No judicial scams].” *Dennis v US*, 1951, *Justice Jackson*, 341 US 494, 572.

9 “...if you think that it is terribly important that the case came out wrong, you miss the point of the common [*lie as the*] law. In the *grand scheme of things*, whether the right party won [*as Justice*] is really secondary [*since* the wrong party won for doing wrongs is made primary as *Justicide*].”

A Matter of Interpretation, Federal Courts and the Law, p6, 1997, by *PIV-Positive jurist Scalia*.

“We are not final because we are infallible, but *we are infallible because we are final [committing Justicides]*,” *Brown v Allen*, 1953, *Justice Jackson*, 344 US 443, 540, *to create illegitimate babies as Bastard Babies* and *illegitimate politics as Bastard Politics (“Bastard Twins”)*, *fabricate* conflicts of interest in families, *revenge* against babies and mothers doing no wrong, *honor* men doing wrongs as holy sexually impregnating women besides their own wives, even unwed women, and deny undeniable paternities and familial unanimity of interests (*“Bastard Fathers”*), *dishonor* mothers accepting undeniable maternities and *not end Justicide*.

Absent a law that requires self-proving sex for people to eyewitness for corroboration despite undeniable resulting babies for corroboration, mandatory use of marriages that are 0% as 100% proof of paternities or sex to prove paternities that they do not prove means *PIV-Positive* jurists making creating *Bastard Babies* self-inflicted the evil thus Royal Baby Bastard Curse (“BBC”) on every purse since mandatory use of DNA-matches as 99% thus 100% proof of every paternity and underlying sex to prove both means *PIV-Negative* jurists to prevent premeditated criminal conspiracies by rare-corrections of misjudgments under SCOTUS Rule 10.

10 “Taxes are what we [*are forced to*] pay for a *civilized society [misregulated by Insane Political Science* to do evil (*“Political Misleadership”*) *revenging against Sane Truthful Science* to do good instead (*“Truthful Leadership”*)], *Compania General v Collector of Internal Revenue*, 1927, 275 US 87, 100, by SCOTUS Justice Holmes, Jr. “In everyone’s One Creator We Have Trust, Faith and Belief” for scientific (truthful) thinking *has to replace* “In God We Trust [, In Devil We Believe]” for unscientific (untruthful) thinking *inscribed* in all Courts as proof of *24/7 Politics of civilized societies misusing taxes in sextillions satisfying illicit sex addiction*.

May it please the Courts to please forgive LKJESQ for taking 50+ years to script this LKJMOL?

Learn and Live in truth knowing Justice always insures nature. *It should have been so since before 1776.*

CRIMINAL COURT OF THE CITY OF NEW YORK
COUNTY OF QUEENS

THE PEOPLE OF THE STATE OF NEW YORK
VS

CERTIFICATE OF DISPOSITION
NUMBER: 126080

ONUORAH, ANTHONY
Defendant

01/15/1960
Date of Birth

125-15 DEFOE ST.
Address

NYSID Number

QUEENS NY
City State Zip

07/30/2012
Date of Arrest/Issue

Docket Number: 2012QN040877

Summons No:

VTL 1163.C VTL 1192.1
Arraignment Charges

Case Disposition Information:

Date Court Action
10/31/2013 ACQUITTED AND SEALED

Judge
ZOLL, J

Part
JP1

I HEREBY CERTIFY THAT THIS IS A TRUE EXCERPT OF THE RECORD ON FILE IN
THIS COURT.

YU, S
COURT OFFICIAL SIGNATURE AND SEAL

11/08/2013
DATE

FEE: 10.00

(CAUTION: THIS DOCUMENT IS NOT OFFICIAL UNLESS EMBOSSED WITH THE COURT
SEAL OVER THE SIGNATURE OF THE COURT OFFICIAL.)

Quotes from this Court Certified 25-Pager
Court Transcript are used in endnote 1 on
LKJMOL Page A2 of A-4. Attached it to
follow LKJMOL Page A4 of A4 helps to
verify the authenticity of the quotes from
Court Transcript Pages 20, 21, 22 and 23.

COURT REPORTER MINUTE AGREEMENT FORM
(Private Party Transactions)

Please Type or Print Clearly

Criminal Court, Queens

Part No. JP 1 Name of Judge/Justice Zoll

Name of Case Anthony Onuorah

3. Court Docket File/Index Number 2012 QN 040877 4. Date(s) of Minutes Requested 10/31/13

5. Type of Proceeding (check one or more):

Arrangement _____ Application _____ Hearing _____ Plea _____ Trial ☒ Sentence _____

Other (specify): _____

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Angela Moody
Court Reporter (signature)

Attorney/Party (signature)

10/31/13
Date of Agreement

Name of Court Reporter _____

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Fax Number _____

Name of Attorney/Party _____

Firm/Address _____

Telephone Number _____

Fax Number _____

A copy of this agreement must be filed by the court reporter with his/her supervisor as designated by the Administrative Judge within 7 calendar days following the date of agreement.

1 CRIMINAL COURT OF THE STATE OF NEW YORK
2 COUNTY OF QUEENS: CRIMINAL TERM, PART JP1

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

Docket No.
2012QN040877

5 -against-

Continued Bench Trial

6 ANTHONY ONUORAH,

7 Defendant.

8 -----X

9 October 31, 2013

10 Queens Criminal Court
11 125-01 Queens Boulevard
12 Kew Gardens, New York 11415

13 B E F O R E :

14 John Zoll,

15 Justice, Criminal Court

16 A P P E A R A N C E S :

17 For the People:

18 OFFICE OF RICHARD A. BROWN, ESQ.
19 District Attorney, Queens County,
20 BY: Taylor Piscionere, ESQ.
21 Assistant District Attorney

22 For the Defendant:

23 Lalik J. Jain, ESQ.
24 6122 Booth Street
25 Rego Park, New York 11374

Angela Moody
Criminal Court Reporter

Proceeding

1 COURT OFFICER: Continued bench trial, Anthony
2 Onuorah.

3 THE COURT: Appearances on the record.

4 MR. JAIN: Lalik Jain, attorney for the Defendant.
5 6122 Booth Street Rego Park, New York 11374.

6 THE COURT: Spell your last name J-A-I-N.

7 MS. PISCIONERE: Taylor Piscionere for the People.

8 THE COURT: Ms. Piscionere, how are you? This
9 matter is on for trial and violation of 1163(a) of the
10 Vehicle and Traffic Law. Are People ready?

11 MS. PISCIONERE: People are ready, Judge.

12 THE COURT: Is Defense ready?

13 MR. JAIN: Yes.

14 THE COURT: People, call your first witness.

15 MS. PISCIONERE: People call Anthony Canale to the
16 stand.

17 COURT OFFICER: Witness entering, Your Honor.

18 (Whereupon the witness enters the courtroom.)

19 COURT OFFICER: Step up, raise your right hand.
20 Do you swear or affirm the testimony you are about to give
21 is the truth, whole truth, nothing but the truth?

22 THE WITNESS: I do.

23 COURT OFFICER: Please, in a loud, clear voice
24 state your name, shield and command.

25 THE WITNESS: Officer Anthony Canale 15509, 113th

Direct-Canale-People

1 Precinct.

2 COURT OFFICER: Have a seat and speak into the
3 microphone.

4 THE COURT: Officer Canale keep your voice up. If
5 you hear the word "objection" stop testifying and wait for
6 further clarification whether you should continue or stop
7 testifying all together to that question.

8 If you have any documents, please don't read from
9 anything that is not in evidence. If you do not recall the
10 answer to a specific question, that's fine. Just tell us
11 that you don't remember, and if there is something that
12 would refresh your recollection, please let us know that and
13 let us know what it is that would refresh your recollection.

14 A N T H O N Y C A N A L E, having been duly called as a witness
15 on behalf of the People of the State of New York first having
16 been first duly sworn testified as follows:

17 DIRECT EXAMINATION BY MS. PISCIONERE:

18 Q By whom are you employed, Officer Canale?

19 A New York City Police Department.

20 Q And in what capacity?

21 A I'm a police officer.

22 THE COURT: Where are you currently assigned?

23 THE WITNESS: 113th Precinct.

24 Q And how long have you been at your current assignment?

25 A Five and a half years.

Direct-Canale-People

1 Q How many years have you been a police officer?

2 A Approximately, six and a half years.

3 Q In those six and a half years, how many traffic stops
4 have you made?

5 A Hundreds.

6 Q I am going to direct your attention now to July 30,
7 2012.

8 Were you working on that day?

9 A Yes, I was.

10 Q What tour were you working?

11 A I was doing a midnight tour which is 11:15 p.m. to
12 7:50 A.M.

13 Q Were you working alone or with a partner?

14 A I was with a partner.

15 Q What is your partner's name?

16 A Officer Algerio.

17 Q Were you on foot patrol or in a car?

18 A In a marked RMP.

19 Q Were you in uniform or plain clothes?

20 A I was in uniform.

21 Q Directing your attention to, approximately, 2:55 a.m.
22 on July 30, 2012. Did you have occasion to be in the vicinity of
23 the intersection of Merrick Boulevard and Montauk Street?

24 A Yes.

25 THE COURT: What was the street?

Direct-Canale-People

1 MS. PISCIONERE: Montauk Street M O N T A U.K.?

2 THE COURT: Were you, in fact, in that location?

3 THE WITNESS: Yes.

4 Q Is that location in Queens County?

5 A Yes, it is.

6 Q What brought you to that location?

7 A I was traveling eastbound on Merrick Boulevard and two
8 cars -- approximately two cars in front of me I observed the
9 vehicle in front of me make a left -- made a lane change without
10 using the signal.

11 THE COURT: Sustained as nonresponsive. Were you
12 on routine patrol at that time?

13 THE WITNESS: Yes, I was.

14 THE COURT: Now, ask your question.

15 Q Were you driving or were you stopped?

16 A I was driving.

17 Q And do you know what direction in which you were
18 driving?

19 A Eastbound.

20 Q What, if anything, did you observe while you were
21 driving?

22 A I observed the vehicle in front of me in the right
23 lane travel into the left lane without using the signal.

24 Q What type of vehicle was in front of you?

25 A It was a 2003 Honda, blue color.

Direct-Canale-People

1 Q And after you observed the vehicle change lanes --
2 actually, withdrawn.

3 How far -- can -- do you see the driver of the Honda Civic
4 in the courtroom today?

5 A Yes, I do.

6 Q Please point out that person and describe an article
7 of clothing that he is wearing.

8 A Sure, he is wearing a black zipper-up sweatshirt.

9 THE COURT: Indicating the Defendant. Is that the
10 gentleman sitting at the table on the right side?

11 THE WITNESS: Yes, far right.

12 THE COURT: Indicating the Defendant.

13 Q What were the lighting conditions like?

14 A It was dark, well lit road.

15 Q And can you elaborate on "well lit"?

16 A Sure, it has light -- light post illuminating the
17 light -- the streets.

18 Q And how many lanes were there going eastbound?

19 A There's two lanes going eastbound.

20 Q And two lanes going westbound?

21 A Correct.

22 Q How many other cars, or if there are any other cars,
23 were on the road?

24 A There were a couple of cars. I don't remember exactly
25 how many.

Direct-Canale-People

1 Q So, would you say it was light traffic or heavy
2 traffic?

3 A Light traffic.

4 Q And after you saw the Defendant move lanes from right
5 to left, what did you do next?

6 A I put my lights on and pulled the vehicle over.

7 Q Just to be clear, when the Defendant moved lanes from
8 the right lane to the left lane, did he signal?

9 A No, he did not.

10 Q How many car lengths was the Defendant in front of you
11 when you observed him?

12 A I would approximate two car lengths.

13 Q Were there any other cars between you?

14 A No.

15 MS. PISCIONERE: No further questions, Your Honor.

16 THE COURT: Cross-examination.

17 MR. JAIN: Yes.

18 CROSS EXAMINATION BY MR. JAIN:

19 Q Morning officer.

20 A Good morning.

21 Q You indicated that you were at the intersection of
22 Montauk and Merrick Road, am I correct?

23 A Correct.

24 MR. JAIN: I would like to include in the record,
25 Your Honor "A", a Google map of the precise location, which

Cross-Canale-Defense

1 is not big enough to visualize easy and a pencil sketch of
2 the same location.

3 Q If you can please take a look at it and identify if
4 that's exactly where you were.

5 COURT OFFICER: "A"?

6 MR. JAIN: Yes.

7 COURT OFFICER: Google map is Defense A and the
8 street map Defense B, so marked.

9 THE COURT: Officer Canale, take a look at that
10 and let us know when you are done looking at it.

11 THE WITNESS: Okay.

12 THE COURT: Questions, counselor.

13 MR. JAIN: Okay.

14 Q So, you testified that you were about two car lengths
15 before the intersection of Montauk and Merrick Boulevard and you
16 were driving on Merrick Boulevard eastbound?

17 MS. PISCIONERE: Objection, Judge.

18 THE COURT: Is that your testimony?

19 THE WITNESS: No.

20 THE COURT: That is not his testimony.

21 MR. JAIN: I'm sorry.

22 Q You were driving on Merrick Boulevard. Were you in
23 the right lane or the left lane?

24 THE COURT: Were you driving on Merrick Boulevard?

25 THE WITNESS: When I first observed the vehicle.

Cross-Canale-Defense

1 Q You were two car lengths behind the vehicle of the
2 Defendant?

3 A Correct.

4 Q The Defendant's car was in the right lane, your car
5 was in the right lane or the left lane?

6 A The right lane.

7 Q Did you get to observe whether the Defendant's car
8 came from Farmers Boulevard or the Defendant's car was all the
9 way coming on Merrick Boulevard from the get-go?

10 A I don't remember where the car was before that.

11 Q Can you let the Court know if there was any way the
12 Defendant could have made a turn at the intersection?

13 A At which intersection?

14 Q Montauk and Merrick.

15 THE COURT: Objection sustained. There was no
16 testimony that the car was at any point at an intersection.
17 So, it assumes a fact not in evidence. If you want to try
18 to establish that, you can do that.

19 MR. JAIN: Thank you, Your Honor.

20 Q Now, you testified there were two lanes and there was
21 no signal and the driver changed from the right lane to the left
22 lane. Did you also move over to the left lane behind him before
23 you pulled him over?

24 A Yes.

25 Q And how many cars were there behind your car, if you

Cross-Canale-Defense

1 remember?

2 A I don't remember how many cars were behind me.

3 Q Were there any cars in the left lane when the
4 Defendant moved over to the left lane without signaling?

5 THE COURT: Do you recall?

6 THE WITNESS: I don't recall right now.

7 THE COURT: Mr. Jain, understand I have to stop, I
8 apologize. I did kind of warn you, I got another note from
9 the jury. I have to do about a fifteen minute read back.

10 Officer Canale you are under oath. Please don't
11 discuss your testimony with anyone. We will probably resume
12 about fifteen, twenty minutes.

13 COURT OFFICER: Officer, you can step outside.

14 MR. JAIN: Thank you, Your Honor.

15 * * * * *

16 COURT OFFICER: Case on trial, Anthony Onuorah.

17 THE COURT: Okay, is the witness outside?

18 MS. PISCIONERE: Yes.

19 COURT OFFICER: Witness entering, Your Honor.

20 (Whereupon witness enters the courtroom.)

21 COURT OFFICER: Officer, I remind you, you are
22 still under oath.

23 THE COURT: Mr. Jain, you were cross-examining
24 Officer Canale.

25 MR. JAIN: Sure.

Cross-Canale-Defense

1 CROSS EXAMINATION BY MR. JAIN: (continued)

2 Q As I was asking you, officer, you saw the car in front
3 of you make a lane change from one lane to the other. As a
4 result of that, even assuming he did not do that with signals,
5 was there any risk factor to the car behind that moving car,
6 either in the lane or in the left lane?

7 MS. PISCIONERE: Objection, Your Honor.

8 THE COURT: In that particular -- the objection is
9 overruled. There is some language in that statute that does
10 indicate whether the actions can be taken without creating a
11 risk.

12 Can you answer that question?

13 A If there was a car in the left lane there would have
14 been a risk, yes.

15 Q But there was no car, to the best of your
16 recollection?

17 A I don't remember if there was.

18 Q I understand. So, it would be possible that there
19 might be a risk factor to the car coming in the left lane and you
20 don't remember for sure there was coming a car in the left lane
21 or not?

22 THE COURT: Can you answer that?

23 A It's a possibility.

24 Q But you moved to the left lane to pull him over?

25 A Correct.

Cross-Canale-Defense

1 Q So, if there were a car in the left lane, I assume you
2 would have looked in the left hand mirror to see --

3 MS. PISCIONERE: Objection.

4 THE COURT: Objection sustained.

5 Q The statute talks about movement left or right upon a
6 roadway. Now, it's a two lane roadway at that juncture?

7 THE COURT: Is that correct?

8 THE WITNESS: Yes.

9 THE COURT: Go ahead.

10 Q Single lane is also called a roadway?

11 THE COURT: Is that your understanding of the
12 definition of "roadway"?

13 THE WITNESS: Yes.

14 Q There is a single lane, it's also called a roadway?

15 A Correct.

16 Q The roadway's width is pretty big for a small car like
17 the Defendant's to make movements right or left?

18 MS. PISCIONERE: Objection.

19 THE COURT: Sustained.

20 MR. JAIN: Your Honor, I have no other questions.

21 THE COURT: I have a couple of questions.

22 Was it a two-way roadway?

23 THE WITNESS: It was two ways both -- two lanes
24 traveling eastbound and two lanes traveling westbound.

25 THE COURT: So there were four separate lanes of

Cross-Canale-Defense

1 traffic?

2 THE WITNESS: Correct.

3 THE COURT: Two would go east, two would go west.

4 THE WITNESS: Yes, separated by a divider.

5 THE COURT: A concrete divider?

6 THE WITNESS: Yes.

7 THE COURT: Now, were the lanes marked?

8 THE WITNESS: Yes.

9 THE COURT: Could you describe the markings on the
10 lanes that were -- you were going eastbound?

11 THE WITNESS: Yes.

12 THE COURT: Can you please describe the markings
13 on the pavement with respect to the eastbound lanes?

14 THE WITNESS: Sure. Between the two lanes was a
15 dotted line.

16 THE COURT: A what line?

17 THE WITNESS: Dotted line.

18 THE COURT: What color were they, do you recall?

19 THE WITNESS: I believe it's white.

20 THE COURT: Did you have occasion to, this is back
21 in 2012, back on July 30, 2012, can you describe in more
22 detail whether the dotted lines in any way were faded?

23 THE WITNESS: No.

24 THE COURT: Did you say the color?

25 THE WITNESS: They were white.

Redirect-Canale-People

1 THE COURT: Any redirect?

2 MS. PISCIONERE: Briefly, Judge.

3 REDIRECT EXAMINATION BY MS. PISCIONERE:

4 Q Officer, when you pulled over the Defendant, how did
5 you pull him over, with lights?

6 A Yes, I put the lights and I beep the siren.

7 Q Did you pull him over to the left side of the street
8 or the right side of the street?

9 A After he was established in the left lane, I was
10 behind him and then he moved from the left to the right and then
11 to the shoulder.

12 Q When you put your lights on, did the Defendant
13 immediately pull over?

14 A Yes.

15 MS. PISCIONERE: No further questions.

16 THE COURT: Any recross based upon those few
17 questions?

18 MR. JAIN: No, Your Honor.

19 THE COURT: Thank you very much Officer Canale, I
20 appreciate it.

21 THE WITNESS: Thank you.

22 COURT OFFICER: Thank you, officer, you can step
23 down.

24 THE COURT: People, do you have another witness?

25 MS. PISCIONERE: No, Judge, the People rest.

Proceeding

1 THE COURT: Mr. Jain, any witnesses?

2 MR. JAIN: No witnesses, but some arguments if
3 that is allowed.

4 THE COURT: Yes, if you are ready for your closing
5 argument.

6 MR. JAIN: My first question is, are post
7 Memorandum of Law allowed in criminal cases?

8 THE COURT: Why don't we do summations on the
9 trial and then if you have any legal issue you can include
10 that. Now, if you feel the People have not made out a prime
11 facie case. I am not texting, but pulling up the statute.

12 MR. JAIN: I have to make the legal arguments in
13 my summation?

14 THE COURT: Tell me why you think your client is
15 not guilty of this changing of lanes, or I should say
16 1163(a).

17 MR. JAIN: This may be a case of first impression
18 in the sense that since the operative language in the
19 charged section is moving right or left upon a roadway.

20 THE COURT: Okay.

21 MR. JAIN: That movement can be made with
22 reasonable safety. It does not require any signals. The
23 roadway can include a signal lane -- single lane roadway.
24 In a single lane roadway a big, wide load or a truck may not
25 be able to make left or right movements, but a small car can

Proceeding

1 very well make right or left movements in that roadway, in
2 that single lane and therefore the statutory language is
3 very, very vague and should not be used to convict a person
4 when there is no requirement in connection with movement on
5 a roadway within the same lane, which is possible, although
6 the testimony says he made a change in the lane without
7 signaling.

8 THE COURT: Is your argument that the change of
9 lanes without signaling is not covered by this statute?

10 MR. JAIN: That is correct, that is precisely the
11 point, beside the point that this section entirely deals
12 with turning and does not deal with movement upon a lane per
13 se.

14 Because obviously if the person has to make a left
15 turn or a right turn he will have to make a movement to the
16 left or right in that single lane to make the turn.

17 THE COURT: Okay.

18 MR. JAIN: Having said that, if a conviction is
19 made under this section it will be a conviction without
20 factual support and such a conviction would be a conclusory
21 conviction without factual support, and the definition of
22 the word conclusory has been provided by, in the case 823 F
23 2d 574 at 585. It's by Justice Ginsburg, who I think is
24 still a current U.S. Supreme Court Justice. The case is
25 Senate of Puerto Rico versus U.S. Department of Justice.

Proceeding

1 Having said that, there is a U.S. Supreme Court case going
2 back to 1828, Elliott versus Lessee of Piersol, 26 U.S.
3 (1 pet) 328 at 340 through 341 and the essence of that
4 ruling is that where the Court has jurisdiction, and this
5 Court does have jurisdiction, any decision made by the Judge
6 of law or fact, if it is erroneous, it is still valid and
7 enforceable, unless turned over.

8 However, if the Judge or the Court has acted above
9 the law, that action is called without authority. In that
10 situation, the judgments are regarded as nullity, void from
11 day one and there is no reason to have it declared even as
12 void, it just is void.

13 My argument is that the conclusory conviction,
14 based on the vague definition or language used in the
15 section about movement makes it a conclusory decision, a
16 conclusory conviction and therefore the case should be
17 dismissed as a conclusory charge without facts.

18 THE COURT: Another way of saying it, you do not
19 believe -- the statute does not put the driver or motorist
20 on fair notice --

21 MR. JAIN: That's correct, Your Honor.

22 THE COURT: Anything else?

23 MR. JAIN: No, I think that's enough.

24 THE COURT: Thank you. People.

25 MS. PISCIONERE: Just one moment Judge, please.

Proceeding

1 THE COURT: Sure.

2 MS. PISCIONERE: Your Honor, this case is about
3 driving and being unable to follow the rules of the road.
4 The Court heard testimony from Officer Canale that on
5 July 28, 2012 the Defendant was driving here in Queens
6 County and he failed to indicate a lane change as he moved
7 from the right lane to the left lane.

8 We know this because the Court heard from Police
9 Officer Canale who has made over a hundred traffic stops in
10 the six and a half years he has been a police officer.

11 He testified about 2:55 A.M. he observed the
12 Defendant driving down Merrick Boulevard and he testified
13 that the Defendant's car was, approximately, two full car
14 lengths in front of him and he observed the Defendant move
15 from the right lane to the left lane without signaling.

16 Furthermore, Your Honor, the police officer
17 testified that there was traffic on the road behind the
18 officer. There was a possibility there was traffic behind
19 the officer and there was traffic in front of the
20 Defendant's car.

21 The police officer further testified that this was
22 a well lit area and that the lanes were clearly marked.
23 They were white dotted lines and the Defendant moved from
24 the right clearly designated lane to the left clearly
25 designated lane without signaling with traffic on the road.

Proceeding

1 Your Honor, the People proved beyond a reasonable
2 doubt that the Defendant unlawfully moved from one lane to
3 another without signaling and I am asking the Court to find
4 the Defendant guilty of Vehicle and Traffic Law 1163(a).

5 THE COURT: Thank you.

6 Counsel made an argument that the statute is vague
7 and does not put the motorist on notice as to exactly what
8 is prohibited. While I agree the statute is not written in
9 the best manner it probably could, it probably should be
10 broken up into more subsections, but it is not vague.

11 It is not unconstitutionally vague. I would point
12 out that there is not enough evidence to convict the
13 Defendant of that portion which involves any type of
14 movement that could not be made -- I'm sorry, any type of
15 dangerous movement concerning any other cars around.

16 There was not sufficient testimony about
17 surrounding motor vehicles that indicated that such changing
18 of lanes was not safe, or any such movement. So, that
19 portion of the statute does not apply.

20 Now, the statute, the Vehicle and Traffic Law
21 defines turns. It does define U-turns. U-turns involve
22 changing directions and that is in the definition part at
23 the beginning of the Vehicle and Traffic Law. This
24 particular statute, the relevant portion for this case reads
25 as follows: "No person shall turn a vehicle at an

Proceeding

1 intersection unless the vehicle is in a proper position upon
2 the roadway as required by this section."

3 This was not a turn at an intersection. That
4 section of the statute does not apply. If further reads "or
5 otherwise turn a vehicle from a direct course or move right
6 or left upon a roadway unless or until such movement can be
7 made with reasonable safety."

8 That section does not apply. However, it further
9 reads "no person shall so turn any vehicle without giving an
10 appropriate signal in the manner hereinafter provided."

11 The statute doesn't say that a turn, in my view,
12 in my reading of the statute means a turn is not simply a
13 left turn or a right turn or a U-turn. It clearly means any
14 movement from a change -- change of movement from a direct
15 course, whether right or left.

16 Based upon that and based upon the officer's
17 testimony that the lanes were, in fact, clearly marked -- if
18 they were not marked then it would be a different result.
19 His testimony is that the lanes were, in fact, clearly
20 marked and that the Defendant went from the right lane to
21 the left lane without signaling.

22 I do find the officer's testimony to be credible.
23 I do find the Defendant did, in fact, violate section
24 1163(a) and I do find the People have proven the case beyond
25 a reasonable doubt. I do find the Defendant guilty of that

Proceeding

1 lone count in the Information and I am prepared to impose a
2 sentence, unless you want to be heard.

3 MR. JAIN: Yes, Your Honor.

4 THE COURT: What would you like?

5 MR. JAIN: Just based on your assertion, although
6 you find him pretty much guilty, the argument that I need to
7 let you know, that even the movement portion is subservient
8 to turning and if Your Honor says that the turning is
9 included in the word "movement", then according to Your
10 Honor, even a U-turn is included in the word "movement".

11 THE COURT: "U-turn" has a very specific
12 definition in Vehicle and Traffic Law. I looked for the
13 term "turn". "Turn" does not have a specific definition,
14 although this section, 1163(a) does give various examples of
15 the types of turns, a turn from an intersection.

16 MR. JAIN: Right.

17 THE COURT: A change of lane, which is going from
18 a direct course to move the car from right to left is
19 descriptive of a change of lanes.

20 MR. JAIN: Right, but the vagueness does go to the
21 extreme. Even a single lane is called a roadway and there
22 is no way a turn can be made unless, again, same argument
23 that movement within that single lane also could be used to
24 turn, but in that case there is no signal requirement.

25 THE COURT: All right, if you want to make any

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1 subsequent motions you are free to do so. If you want to be
2 heard as to any sentence.

3 MR. JAIN: Your Honor, this is the first I think
4 charge against him.

5 THE COURT: I would like to impose the minimum
6 fine allowed by law, which I don't even know what it is.

7 Do People want to be heard as to sentence?

8 MS. PISCIONERE: No, Judge.

9 THE COURT: We will find out what the minimum fine
10 is. Parties step up real quick.

11 (Whereupon a bench discussion was held.)

12 THE COURT: After re-examining the statute more
13 closely and reading sub section "D" of section 1163, clearly
14 sub section "D" is the section that should have been
15 charged, because that prohibits lane changes without
16 signaling.

17 Sub section "A" as I reread it many, many more
18 times, my initial reading of it was incorrect in that the
19 movement from right to left is illegal if it's done so in a
20 manner that would create a safety issue on the road.

21 As I stated, there was no testimony about a safety
22 issue as a result of the unsignaled lane change. Therefore,
23 that part of the statute would not apply. What I read, "no
24 person shall turn any vehicle without giving appropriate
25 signal in a manner hereinafter provided" means the

Proceeding

1 subsections that follow.

2 Since the People tried the case under 1163(a), the
3 Defendant did not violate that subsection and I have to
4 change my verdict to not guilty. Had they charged him with
5 1163(d) he would have been found guilty and therefore the
6 Defendant is found not guilty. Case dismissed.

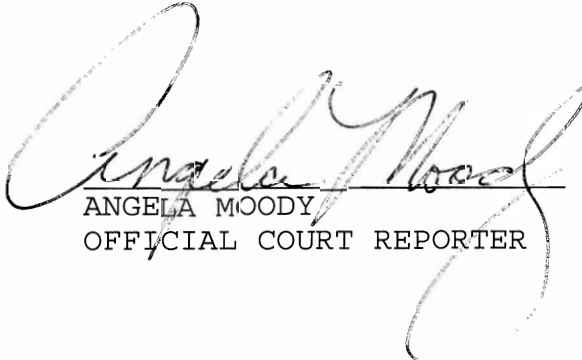
7 COURT OFFICER: You're free to go.

8 THE DEFENDANT: Thank you, Your Honor.

9 MR. JAIN: Your Honor, thank you.

10 * * *

11 This is certified to be a true and accurate
12 transcription of the stenographic record of the above
13 proceedings taken within.

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16 
17 ANGELA MOODY
18 OFFICIAL COURT REPORTER
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