

<b>OM</b>	Memorandum of Law ("LKJMOL") to please all unbiased Courts from Law Offices is Official.	
05.01.2020 Law Day / May Day Update 2 / 05.15.2020	<b>LAW OFFICES OF LALIT K JAIN ESQ</b> Practice of Law in NY State, US Tax and District Courts, US Supreme Court, and all Courts in India. <sup>TM</sup>	Fon: 718-255-6576 Cell: 718-316-5921 Fax: 347-637-5498
Its free use by all people to help all biased Courts upgrade into all unbiased Courts is mandatory. <sup>TM</sup>		

*It's the law. The unbiased process and procedure* with absolute judicial immunity<sup>1</sup> *has to* deter, even prevent, and penalize criminal, civil, tort and other wrongdoers causing even inhuman life-changing and life-threatening injuries from *weaponized penises*<sup>2</sup> to *end* every due process of law *as final closure*.

*It mandates that all Courts act under the law* with jurisdiction *and* authority in law<sup>3</sup> *backed by "truthful science," acquit the innocents, convict the guilty, make predators, hackers, scammers and zealous advocates all four alike ("Injurers")*<sup>4</sup> give Mandatory Restitution and *deterrent punitive damages* to their injureds by unbiased valid judgments with transparency,<sup>5</sup> *lift the royal baby bastard curse ("BBC") like the latest COVID-19 virus Pandemic that is far less threatening than the politically induced virus ("PIV") Pandemic ("24/7 Politics") misusing taxes*<sup>6</sup> *still hurting all lives, not helping any life, since before 1776,*<sup>7</sup> *end scapegoating babies as bastards and mothers as multi-function-whores, and make men self-cure their selfacquired mental illness ("SMI") to end denying undeniable illegitimate paternities resulting from their illicit sex not preventable by their yet-to-be-born sacred babies ("Justice").*

*This Official LKJMOL to be filed by all litigants in all cases is the world's first ever 24/7 reminder of the biased process and procedure*<sup>8</sup> *as a constitutional nullity. Yet, it makes biased Courts act above the law with neither jurisdiction nor authority in law backed by truthless thus ruthless "political science," acquit the guilty, convict the innocents, violate laws against private and/or public gains from causing injuries ("Injureds")*<sup>9</sup> by biased void judgments and, *as ridiculed by BIZZARO, be self-proving truthless thus ruthless Courts acting 100% bizarre to immunize, trafficking law violators for causing inhuman injuries but not traffic law violators penalized by fines for causing no injuries ("Miscarriages of Justice" or "Justicide"). As final closures, it will keep all consciences in 24/7 shock since before 1776.*<sup>10</sup>

**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

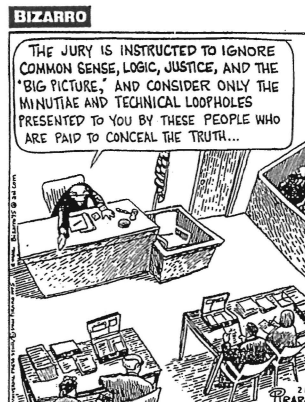
LALIT K. JAIN  
*Counsel of Record for Petitioner*  
61-22 Booth Street  
Rego Park, N. Y. 11374-1034  
718 476-9757

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].<sup>a</sup>

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.



<sup>a</sup> *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 Jain*  
**05/15/2020**

- <sup>1</sup> “[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** [on unbiased process and procedure] 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 [evidencing biased process and procedure by a biased Court] ... [p23]... I **have to change** my verdict to **not guilty** [evidencing unbiased process and procedure by an unbiased Court]. Case dismissed. ... ¶ **Court Officer:** **You’re free to go.**” Docket No. 2012QN040877.

**People v Onuorah, Judge Zoll**, NYS Queens County Criminal Court’s **25-page Oct 31, 2013 Official Transcript** is also available on [www.TruthIsPrudence.Com](http://www.TruthIsPrudence.Com) for **non-believers too** to verify this **GodSent bench discussion**.

**Mandatory use of babies with DNA-matches as 99% proof of sex shall create self-proving unbiased Courts.** Misuse of marriages that are 0% proof as 100% prove of paternities **created self-proving biased Courts like** High Court of Australia to **self-confess, self-correct and enforce reconfirmed 2019 valid conviction with transparency.**

**LKJESQ’s legal duty scripted unbiased LKJMOL (“Truthful Scripture”) for political scriptures and political misleadership to upgrade into truthful scriptures and truthful leadership now. As no law requires sex to be eyewitnessed by strangers for corroboration, so demanding corroboration for self-proving sex eyewitnessed by two sexes truthfully testifying proves biased Courts, more so where the resulting holy baby is the corroboration.**

- <sup>2</sup> “**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** protected as legalized by **biased Courts** as “**24/7 Politics**” until penalized as criminal by **unbiased Courts**].”

**Judge Dr Mrs Phansalkar-Joshi** at <http://tinyurl.com/plghcp2>, page 202 in 232-page Apr 04, 2014 Decision, ¶336 In the Court of Principal Sessions Judge Gr Bombay 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** for police to **not stop/ticket/arrest/fine rapists** for trafficking law violations causing **irreversible and irreparable injuries but only stop/ticket/arrest/fine motorists** for traffic law violations causing no injuries at all.

“...if two **policemen see a rape [by weaponized penis]** and watch [**it**] just for their own [**inhuman**] amusement, no violation of the [**inhuman**] Constitution [**scripted by inhuman men revenging against human women**] ... (**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. **This State Created Danger from politically and judicially weaponized penises mandates Mandatory Restitution from the State to its victims** to resurrect and immortalize **State Confirmed Security from inhuman men revenging and Malpractice of Law sold as Practice of Law**.

- <sup>3</sup> “...where a court has jurisdiction [to act **under** the law thus **with** jurisdiction, authority **and** immunity **in law** to make **valid** decisions, orders and/or judgments (“**Valid DOJs**”), it has a right to decide every question which occurs in the cause...But if it act [**above** the law thus **without** jurisdiction, authority **or** immunity **in law making void DOJs** (“**Void DOJs**”)], its judgments and orders [that are **Void DOJs**] are regarded as **nullities**, all persons ...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 DOJs “is not subject to any time limitation...relief is not a discretionary matter; it is mandatory**...[making the Injurers return to the Injureds all properties held in constructive and/or deemed trusts, even pay **punitive damages** for delays since Justice delayed is Justice denied etc. (“**Mandatory Restitution**”).” **Orner v Shalala, Colo. 1994**, 10<sup>th</sup> Cir, 30 F3d 1307, 1310.

**Mandatory Restitution has to be** for the time the Injureds were forced to live **destituted suffering-in-silence, include deterrent punitive damages for blame games and make human rights** of laymen and lawmen alike for **legitimate** nonmoney-making and moneymaking activities of **daily living** (“**ADLs**”) as **Justice** everywhere **prevail over illegitimate** nonmoney-making and moneymaking **ADLs** as **Miscarriage of Justice** everywhere.

- <sup>4</sup> **Zealous advocates and rogues-in-robos are conspirators invented** by the American Bar Association (“**ABA**”).

“...when an opposing [law-compliant] party is *well represented [by truthful advocacy acting under the law]*, a lawyer *can be a zealous advocate [acting above the law]* on behalf of a [law-defiant] client ...and *assume* that justice is being done [*knowing* that injustice is being done and sold as justice by *rogues-in-robes* committing Justicide assassinating Justice *misusing unbiased courts as biased courts aka Public Enemy No. 1*].”

*Model Rules of Professional Conduct: Preamble, A Lawyer's Responsibilities ¶8*, masterminded by the ABA, *made 100% culpable* facially, factually and legally 100% null and void *truthless* practice of law (“*Malpractice of Law*” aka “*Legal Malpractice*”) for *Justicide* making *100% rewardable* facially, factually and legally 100% valid *truthful* practice of law (“*Practice of Law*”) for *Justice since the day man masterminded lie as law*.

- 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 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 [in biased Courts]* is all that the law requires. Cf. *Marshall v Jerico, 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 [to not be evil popular instead], that justice has been done [*by unbiased Courts with 100% transparency*]”)”

(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 [*in all paternity cases to end* misusing unscientific marriages for *Miscarriage of Justice and begin* correctly using scientific DNA-matches *to prove paternities*]....”

*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 [into by *us ruthless rogues-in-robes' standards of Justicide*]...”

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

- 6 “*Taxes* are what we [*are forced to*] pay for [*rogues-in-robes sold as unbiased jurists in*] *civilized society*.” *Compania General v Collector of Internal Revenue*, 1927, 275 US 87, 100, by SCOTUS Justice Holmes, Jr.

- 7 “*In God We Trust [In Devil We Believe]*” still inscribed in all Courts in all nations is 100% proof of all 100% *PIV-Positive* jurists, Holy Vatican, etc. still forcing People to keep paying unaffordable taxes to keep funding *Evil Governments* of predators...pedophiles *honored by PIV-Positives in 2020 same as in and before 1776*.

“*In Everyone's One Creator We Have Trust, Faith and Belief*” to be inscribed instead will keep helping all *PIV-Positives not backed by scientific thus truthful thinking* to lawfully convict all Bastard Fathers, lawfully acquit all Holy Babies unlawfully convicted as *Bastard Babies* and outlaw *twisted Freedom* in the baby is bastard legally enshrined (“*BIBLE*”) *violating* 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 *until they all disinfect into PIV-Negatives backed by scientific thus truthful thinking*. *Making Good Governments funded by affordable taxes* as the *Solution ends Evil Governments funded by unaffordable taxes* as the *Problem*. *Right? PIV-Positive* twisted male minds still rooted in *political science* to keep doing evil (“*Political Misleadership*”) *keep retaliating against* normal female minds rooted in *truthful science* to do good (“*Truthful Leadership*”).

- 8 “... A petition...is *rarely granted* when the asserted error consists of *erroneous factual findings* or the *misapplication of a properly stated rule of law*.” **Rule 10**, Supreme Court of the United States (“SCOTUS”) *Public Enemy No. 1*. It *misapplies* the Constitution of the United States (“COTUS”) to *please* the President of the United States (“POTUS”), Holy Church, and Federal, State and Local jurists and lawmakers as *conspirators*.

“[571] ... *Judges 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 honesty and integrity [*at 100%*]. A Judge's conduct that departs from this high standard 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 in

these circumstances (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*”; 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]...Determined sanction accepted, without costs, and **Rudolph L. Mazzei is deemed removed from the office of Judge**....”.

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

**Truth be told and practiced** means to accept the fact that babies can do no wrong to end *shocking every good conscience* by mandatory use of DNA-matches to *genetically reconfirm* that *disgraced Bastard Fathers* (“*Injurers*”) claiming babies do wrong *disgrace Holy Babies* (“*Injureds*”) to self-conceal their self-revealed sex-abuses forcing pregnancies of judicial, lexual (legal), sexual and other predators *committing conspiracies* (“*Criminal Process*”) misusing marriages to *corrupt blood families*. **Knowing** that DNA-matches, *backed by science*, do prove paternities, *saying* that marriages, *not backed by science*, prove paternities that they do not *is immunized lying by all Courts with forensic experts individually and collectively as Public Enemy No. 1*. **They made** due process of law *violate* due process of life since it begins with *100% security of every single womb*. **They misregulate lives making babies doing no wrongs instead of fathers doing wrongs bastards for life**.

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

A *Matter of Interpretation*, Federal Courts and the Law, p6, 1997, by *Scalia* pleasing the *SCOTUS*, *POTUS*, etc.

<sup>9</sup> **Injurers include zealous advocates as conspirators in the common law tradition of killer judicial conspiracy.**

“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 Justicide*, 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 to teach lying business to law students].”

*Cardozo, J., 1921, The Nature of the Judicial Process*, p. 41, which is *his toxic legal classic or judicial scripture* authored by him as *a rogue-in-robe infected with the toxic theology of sexual predators and pedophiles*, etc.

“... **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] creating injureds*.” *Riggs, supra*. **Learn and live in truth knowing Justice always insures nature from womb to tomb is still 100% true.**

<sup>10</sup> **In all paternity cases, Justice self-enforced** in nine months *is guaranteed* by everyone’s One Creator making women *Holy Mothers*, gifts of God *Holy Babies* and men *Holy Fathers proved 100% right by science shocking no conscience* (“*State Confirmed Security*”). **Men’s** self-acquired mental illness (“*SMI*”) to deny undeniable paternities *revenging against State Confirmed Security* makes them *Bastard Fathers* and proves *men’s evil cult sold as men’s good culture* (“*Politics*”). **This** politically induced virus (“*PIV*”) is men’s politically and judicially approved *SMI* proving *guaranteed Miscarriages of Justice by Justicide* using “law” as politically and judicially approved word for “lie” sold as “truth” *in all sex-abuse cases* and thus *in almost all non-sexabuse cases* to justify all kinds of unjust deeds by injurers causing injuries (“*State Created Danger*”).

**PIV is to-get-her for free sex.** It was *masterminded* by psychotherapists (*psycho-the-rapists*), jurists, lexualists (legalists), ethicists, moralists, spiritualists, economists, visionists, etc. in *self-proving criminal conspiracies*.

“The Constitution does not make *conspiracy [being a partnership in criminal process] a civil right*.” *Dennis v US*, 1951, *Justice Jackson*, 341 US 494, 572. “A *conspiracy is a partnership in criminal process [used by PIV-Positive jurists to sell evil governments of, for and by predators and pedophiles alike as good governments of, for and by Holy Men that they are not]*. *US v Kissel*, 1910, *Justice Holmes*, 218 US 601, 608.

As victims of the common law tradition, honoring the *evil Law Giver Draco of ancient Greece* and the *three branches’ check-and-balance system misused as government conspiracy by rogues-in-rob*es is *dead wrong*.

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:

<u>Date</u>	<u>Court Action</u>	<u>Judge</u>	<u>Part</u>
<u>10/31/2013</u>	<u>ACQUITTED AND SEALED</u>	<u>ZOLL, J</u>	<u>JP1</u>

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): \_\_\_\_\_

6. Pursuant to Section 108 of the Rules of the Chief Administrative Judge, the rates per page for transcripts of proceedings reported in New York State courts shall be as follows:

Regular delivery: \$3.30 - \$4.30 (original)  
\$1.00 (each copy)

Expedited delivery: \$4.40 - \$5.40 (original)  
\$1.10 (each copy)

Daily delivery: \$5.50 - \$6.50 (original)  
\$1.25 (each copy)

**Due**  
**\$94.60**

7. Rate to be Charged Per Page: \_\_\_\_\_

Regular ☒ Expedited \_\_\_\_\_ Daily \_\_\_\_\_ Other \_\_\_\_\_

No. of Copies Ordered 1

8. Estimated Number of Pages: 22

9. Estimated Delivery Date: 11/7/13

10. Agreed to:

Angela Moody  
Court Reporter (signature)

\_\_\_\_\_  
Attorney/Party (signature)

10/31/13  
Date of Agreement

Name of Court Reporter \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

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

## Proceeding

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.

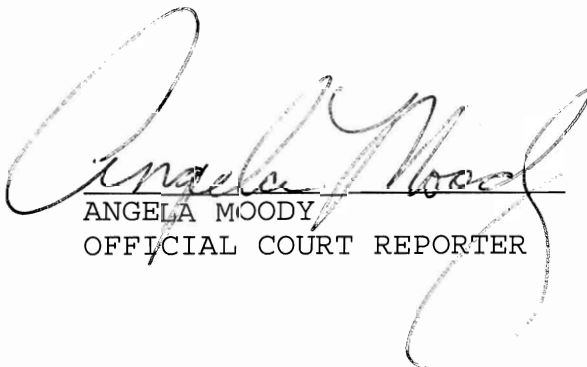
7 COURT OFFICER: You're free to go.

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.

14  
15  
16   
17 ANGELA MOODY  
18 OFFICIAL COURT REPORTER  
19  
20  
21  
22  
23  
24  
25