

08.10.2020
Rev 05.09.2021

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 Public Service Checkmate Memorandum of Law ("LKJMOL") with checkmate authorities in endnotes¹⁻¹⁰ is for Public Use.

The point made is governments' belief in the mandated u-turn enshrined ("MUTE").¹ Law or lex is more irresistible than sex for self-demeaning jurists² and lawyers³ as barbaric bar members and theologists ("Con Artists") to end using unscientific marriages that are 0% proof as 100% proof of sex and paternities ("SCAMS"), raping⁴ protected by policemen⁵ endangering lives and nations, and misuse of taxes⁶ by Governments⁷ to violate human rights to legitimate births and deaths ("Jurisprudence").⁸

It makes them use scientific DNA-matches that are 99% proof as 100% proof of both to end human rights violations, close the unconstitutional truthless thus ruthless grand scheme of things ("GST")⁹ used as the loophole for Miscarriages of Justice by Justicides perpetuating the Justicidal PlanDemic making out-of-wedlock births bastard babies far more lethal than the COVID-19 PlanDemic and release all lives on hold using the truthful thus constitutional Rule of law ("ROL") for Justice ("TruthIsPrudence").¹⁰

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].^a

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.



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

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 [*acting above the law as void* to convict the *mischarged motorist*] was incorrect ...[p23]... I *have to* [*self-confess, self-correct* and] *change* my [*discretionary*] verdict [of guilty] to [*mandatory verdict of*] not guilty [*acting under the law as valid* to acquit *that motorist*]. Case dismissed...¶ Court Officer: You're free to go.

The Official www.TruthIsPrudence.Com with the LKJMOL is the credible legacy certified in law by LKJESQ challenged by the world and its people in billions to help all Courts use it in all cases and end traffickings in Justice, humans, etc.™

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

A1-A4

05/09/2021

“Good Law Day” was born in a NY Court on Oct 31, 2013/LKJMOL 08.10.2020/ www.TruthIsPrudence.Com LKJESQ
As the truth shall set the human race free from paternity denials as the untruth, so trust, faith and belief in liberty is to begin freedom of
rightdoing, end freedom of wrongdoing, rescue the lying and relying on lying human race and guaranty Justice by laws correctly applied.

The “real quick” bench discussion in the attached *Transcript* of Docket No. 2012QN040877, NYS Queens County Criminal Court, *People v Onuorah*, **was constitutionally ordered** to find the cure in the cause (“*CITC*”).

It proves using self-correcting brains in self-healing bodies by both sexes to make *inharmonious* acquired untruthful orientation (“*AUO*”) **accept** 100% certainty of maternities and paternities to **correct** the reversed commonsense of right and wrong to live safe and sound with *harmonious* innate truthful orientation (“*ITO*”).

- ¹ The Supreme Court of the United States (“*SCOTUS*”) **Rule 10** to **never correct** “erroneous factual findings or the misapplication of a properly stated rule of law” **is for all jurists, theologists, lex and sex experts and predators alike to keep making out-of-wedlock births of innocent babies bastard babies and keep proving that immunizing legislative and executive congressional wrongdoings will keep proving that their lie is the law.**

- ² “...where a court has jurisdiction to act **under** the law [thus **with** jurisdiction, authority **and** absolute judicial immunity in law to be **100% credible as ITO**], 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 to be **100% incredible as AUO**], its judgments and orders are regarded as **nullities**, all [lawmen and laymen alike] ... **executing [nullities]** are considered **in law** as trespassers [**in law aka conspiring injurers** (“*Outlaws*”) with no executive immunity from being ordered by [100% credible instead of 100% incredible] Courts to make their injureds whole.”

Elliott v Lessee of Piersol, 1828, 26 US (1 Pet.) 328, 340-341.

- ³ “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.

- ⁴ “... **relief from void judgments is not subject to any time limitation ... relief is not a discretionary matter; it is mandatory**...[injurers shall be ordered to give back to injureds, **with punitive awards**, all properties held in constructive and/or deemed trusts making relief from, and redress for, **injureds’ lives kept on hold** (“*Mandatory Restitution*”); **no deterrent punitive awards are “grossly excessive,” TXO Production Corp. v Alliance Resources Corp., 1993, 509 US 443]**, **to help predators as injurers end causing injuries to their prey.**

Orner v Shalala, Colo. 1994, 10th Cir, 30 F3d 1307, 1310; Limone v US, 2011, 815 FSupp2d 393.

- 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 honesty and integrity [to end predation]**. A Judge's conduct that departs from this high standard [**as judicial misconduct**] **erodes** the public confidence in our justice system so vital to its effective [**credible**] 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 [**credible**] judiciary”; emphasis added; *Matter of Bailey*, 67 NY2d 61, 62-63... Nor does petitioner's alleged motivation of deceiving his wife not the bank **mitigate the objective conduct [to be dishonest in his subjective mission]**.... [573]...and Rudolph L. Mazzei is **deemed removed** from the office of judge [**for acting above the law instead of under the law in and/or out of Courts**].” **Matter of Mazzei v State Commission on Judicial Conduct, 1993, Ct App, 81 NY2d 568, 571-573.**

- ³ “...when an opposing [**injured**] party is **well represented [pro se or by truthful advocate** using evidence of injuries] ... a lawyer **can be a zealous advocate [as a lex offender or injurer hired to make jurists con artists to commit Justicides like hitmen hired to commit homicides]** on behalf of a[n **injurer**] client and **assume** that justice is being done [**as proof of Courts lying and relying on lying as proof of SCAMS in Courts of law**].”

Model Rules of Professional Conduct: Preamble, A Lawyer’s Responsibilities ¶8, scripted by the American Bar Association (“*ABA*”), to claim that **innocents** scapegoated, stonewalled and smothered for doing no wrong **in sexabuse cases and non-sexabuse cases were at the wrong place at the wrong time** outside and inside Courts and **please conspiring SCOTUS, Congress, churches, jurists, juries, priests, lawmakers, pedophiles, sexual, lexical...judicial predators** and Presidents of the United States (“*POTUSs*”) as **proof of selling lies as laws.**

- ¹ “The Constitution [**correctly applied**] does not make conspiracy [**as proof of SCAMS**] a civil right.”

Dennis v US, 1951, SCOTUS, Jackson, Robert H., 341 US 494, 572.

- ² “A conspiracy [**as proof of SCAMS**] is a partnership in criminal process [**sold as due process of law**].”

US v Kissel, 1910, SCOTUS, Holmes, Oliver Wendell, 218 US 601, 608.

- ³ “We are **not final** because we are infallible [**to be right since we don’t want to be right**] but we are infallible because we **are final [to be wrong since we want to be wrong not using our self-correcting brains to be right]**.”

Brown v Allen, 1953, Justice Jackson, 344 US 443, 540.

“Good Law Day” was born in a NY Court on Oct 31, 2013/LKJMOL 08.10.2020/ www.TruthIsPrudence.Com **LKJESQ**
As the truth shall set the human race free from paternity denials as the untruth, so trust, faith and belief in liberty is to begin freedom of rightdoing, end freedom of wrongdoing, rescue the lying and relying on lying human race and guaranty Justice by laws correctly applied.

- 4 “***It has to be stated*** that though the accused [***rapists***] have not used any ***external weapon***, they have used ***more powerful [internal] weapon*** i.e. ***penis*** with which each one of them have ***caused the most grievous injuries*** not only to the ***body of [females, Lady Justice and Lady Liberty]*** but also to ***her mind*** which will ***last forever [until policemen as proof of being conscionable stop/ticket/arrest/fine/prosecute rapists for causing injuries but not stop/ticket/arrest/fine/prosecute motorists causing no injuries].***” ***Scripted by 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.***
- 5 “...if two ***policemen see a rape [or prostitution, porn, etc.]*** and watch [***weaponized penises***] just for their own amusement [***in the line of duty funded by taxes paid to evil governments sold as good governments as proof of the SCAM***], no violation of the [***weaponized***] Constitution ...(***laughter***)” by ***SCOTUS CJ Rehnquist*** in the ***Nov 2, 1988 Court Transcript***, pp39-60 at pp46-47, ***May It Please the Court ...Transcripts of ... Landmark Cases before the SCOTUS...***1993, ***DeShaney v Winnebago County*** reported as 1989, 489 US 189. ***Enjoy*** from 39:00 to 41:00 minutes ***the sinister laughter of the sinister SCOTUS*** as <http://tinyurl.com/pnu9lrj>.
- 6 “***Taxes*** are what we [***are forced to***] pay for a ***civilized society [making civilians live in fear of criminals].***” ***Compania General v Collector of Internal Revenue, 1927, 275 US 87, 100, by Justice Holmes, Jr.***
- 7 “***Society [of Creators of baby humans]*** in every state is a blessing, but Government even in its best state is but a necessary evil; in its worst state an intolerable one...,” ***Feb 14, 1776 after*** writing in the Appendix to ***male’s Common Sense*** that “[w]e have it in our power to begin the [***good***] world over again.” ***Common Sense by Thomas Paine did confess but did not correct the evil world into the good world.***
- 8 ... [p59] “One course of action [as ***evil***] ***excludes*** the other [course of action as ***good***]. ... [p60] The law requires no one to do [***evil as***] a vain thing [***and thus evryone to do good as a valid thing***].” ***Strasbourg v Leerburger, Ct App, Hiscock, Ch. J., Cardozo, 1922, 233 NY 55, 59, 60.***
In all timely legal moves by babies, mothers and other injureds, Courts still commit ***Justicides*** as crimes like ***homicides*** in law and ***sins*** like blasphemies in religions, ***acquitt*** guilty (nocent) bastard fathers doing wrongs as not guilty (innocent) Holy Fathers doing no wrongs, and ***convict*** innocent babies-in-fact doing no wrong as nocent bastards-in-law knowing that they are forcibly conceived and born without their consent or knowledge.
The law, reconfirmd by the MUTE, mandates that Courts on their own motion, or on injureds’ motions, toll all Statutes of Limitations with no time limit for injureds to make legal moves as valid things instead of void things ***until*** Courts prove that the ***MUTE did make all jurists end*** being ***Con Artists and end judicial SCAMS.***
- 9 “...if you think that it is ***terribly*** important that the case came out wrong, you miss the point of the common law. ***In the grand scheme of things [by the Con Artists]***, whether the right party won is really secondary.” ***A Matter of Interpretation, Federal Courts and the Law, p6, 1997, by SCOTUS Justice Scalia, died 02.13.2016.***
All decisions, orders and/or judgments in ***the grand scheme of things*** are legally unenforceable as null and void (“***Nullities***”) because the wrong party winning is self-proving evidence that the courts ***did act above the law*** thus ***without*** jurisdiction, authority ***or*** immunity in law as Jurisprudence ***until*** the courts ***do act under*** the law thus ***with*** jurisdiction, authority ***and*** absolute judicial immunity in law, thanks to the ***MUTE ending judicial SCAMS.***
- 10 ***LKJESQ is in tears*** for his and his family’s ***lives on hold for over three decades*** enduring destituted lives like innocent babies scapegoated, stonewalled and smothered as bastard babies for breaking no laws.
A properly stated ROL requires that all jurists act under the law thus not above the law until the truth-test makes them reverse and correct truth-failed legally unenforceable as void judgments, decisions and/or orders (“***Void DOJs***”) into ***truth-passed*** legally enforceable as valid ***DOJs*** (“***Valid DOJs***”) in all cases in all Courts in all nations no matter how different they will still always be in the present and the future as in the past.
LKJESQ will keep devoting his life to script this world’s first credible Scripture to outlaw all incredible scriptures (“***State Created Danger***”) as the problem with 24/7 threats to the health, welfare and safety of every individual, family and nation and every nation’s own sovereignty itself (“***State Confirmed Security***”) as the solution from womb to tomb ***unless and until the Con Artists end the Justicidal PlanDemic as the challenge.***
We are all born from 100% secured wombs that ***Con Artists made 100% insecure*** with mandatory use of unscientific marriages to prove sex and paternities since they do not prove either but coverup both to commit ***Justicides***, knowing that the ***infallible Justice***, self-enforced by natural law reconfirmd by mandatory use of scientific DNA-matches to prove sex and paternities since they do prove both, ***has to penalize them as Outlaws.***

“Good Law Day” was born in a NY Court on Oct 31, 2013/LKJMOL 08.10.2020/ www.TruthIsPrudence.Com LKJESQ
As the truth shall set the human race free from paternity denials as the untruth, so trust, faith and belief in liberty is to begin freedom of rightdoing, end freedom of wrongdoing, rescue the lying and relying on lying human race and guaranty Justice by laws correctly applied.

Self-corrections using this *error-free LKJMOL* is to be *American* of ethical, moral and spiritual orientation aka *ITO*, not *Unamerican* of unethical, immoral and unspiritual orientation aka *AUO*. *Innate thus good nature always precedes acquired thus evil nurture. It makes men self-confess that women “being Creators” of men are superior beings than “being created” inferior men with sperms as their only contribution in the divine baby-making-process for people and nations to live consumed by consumers protected by the Justicidal PlanDemic cartooned on AI.*

- ^{.1} *All* lawmakers, jurists and journalists *are team-predators violating* their intertwined thus inseparable preventive and curative *civic duties* to make fathers doing wrongs the bastard fathers, instead make out-of-wedlock babies doing no wrong bastard babies, and *breach*, making *all guardians-ad-litem* (“*GALs*”) *breach*, all trust, faith and belief (“*Trinity*”) to scapegoat, stonewall and smother *babies and elderlies* in 100% need of 100% others’ care.
- ^{.2} *All* Federal, State and Local Lawmakers and Jurists, Forensic Experts, Presidents, and Founding Fathers too are *by choice*, wrongdoers using *Jurisprudence* with the *new choice* to become rightdoers using *TruthIsPrudence*.
- ^{.3} *Self-enforced Justice* made men *retaliate against women, create* and *monetize* words like *God (dog reversed)* for *Jurisprudence* and *made zealous lawyers and jurists conspirators in practice to commit Justicides causing the Justicidal PlanDemic, immunize men denying undeniable Justice* evidenced by *babies as evidence* of sex, paternities and maternities as the two *intertwined thus inseparable sides of procreative sex* and *immunize conspiring* Courts, Congresses and Churches *playing politics with and keeping all lives on hold until death*.
- ^{.4} *TruthIsPrudence* is the *solution* making jurists *go back in history with no time limit to come out clean to end Jurisprudence as the problem. The truth is: when him-her-sex* does impregnate a woman, *then, sex* does make him the legitimate father of his babies carrying his *genetic signature* when she is his wife and illegitimate father aka *bastard father* when she is another’s wife or an unwed woman as proof of the *secured baby-making process*.
- ^{.5} *Credible laws of nature* mandate that this *TruthIsPrudence not shocking no conscience end Jurisprudence as shocking every conscience* with unanimous political, judicial, moral, ethical, spiritual, legal and constitutional approvals of sex predators. *They enjoy* forced sex prey in all nations making innocent babies doing no wrong *bastard babies*. *They hate* innocent women doing no wrong giving babies made from seeds sowed by men. *They love* nocent men doing wrongs *violating* marriage and divorce (“*MAD*”) laws to commit criminal adulteries, also rapes, date rapes, gang rapes and statutory rapes. *They enjoy* illegitimate sex with women besides their own wives, with others’ wives and with unwed women and *lie to deny undeniable sex and paternities*.
- ^{.6} *They made man’s lie people’s law* that man is not the father of his baby knowing that he is, *practice of law practice of lie* and *Courts of law Courts of lie* causing stress (“*Stressor*”). *Stressor will keep making everyone’s potent immune system impotent* until cremated by *TruthIsPrudence to keep it potent* and *lift* the self-inflicted evil thus Royal *baby bastard curse* (“*BBC*”) *on every purse*. *They proved* that self-proving predators scripted the *baby is bastard legally enshrined* (“*BIBLE*”), *created rape threats* to females from males as the *RAPE PlanDemic* intertwined with thus inseparable from *pregnancy and death threats* as *far more barbaric* than *only death threats* to both sexes alike as the *COVID-19 PlanDemic*, even if the *six-feet social distancing against* the COVID-19 PlanDemic and the RAPE PlanDemic *are a vain thing sold as a valid thing* using *SCAMS*.
- ^{.7} *The absolute truth* in law, medicine, religion, etc. is that *TruthIsPrudence protects all people of all sexes*, born credible, rational and undelusional, *from* *Jurisprudence* still making them incredible, irrational and delusional. *Even one night stands* make impregnators leave indelible genetic signatures to prove *undeniable illicit sex and paternities denied by predators* in law, medicine, religion, etc. *committing immunized perjuries in Courts*.
- ^{.8} *As we humans, not robots, are imperfect but self-correcting, so the MUTE mandates* that we humans *begin* to honor and respect *women as our Creators, cremate* barbaric bar members’ *extremism making sex pleasurable for male-predators yet painful, even life-threatening, for female-prey* and *keep* all places, people and nations peaceful, safe and soundmandates to prove that the *truthful ROL did cremate the truthless thus ruthless GST*.
- ^{.9} *Mandatory belief* in the *truthful ROL* makes fathers breaking laws instead of babies breaking no laws *the bastards* for *out-of-wedlock births* as valid closures for good to end evil created by void closures *but for which* ending due process of law shall keep being nullities with no time limit in all cases in all Courts in all jurisdictions in all nations no matter how different they will always be *until* valid closures are made for good to end evil.
- ^{.10} *LKJESQ* is dying to thank lawmen like jurists, lawyers, theologists and other experts and laymen alike to please find errors in this error-free *LKJMOL* to help make it more error-free even if he is disbarred for helping to make governments’ belief in the *MUTE* with the *CITC* as everyone’s dream come true. Everyone’s self-healing body with self-correcting brain is the self-proving truth *until* 100% credible Courts do prove the reverse as the truth.

Learn and live in truth knowing Justice always insures nature. If not, why not? If yes, why not now?

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): _____

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.

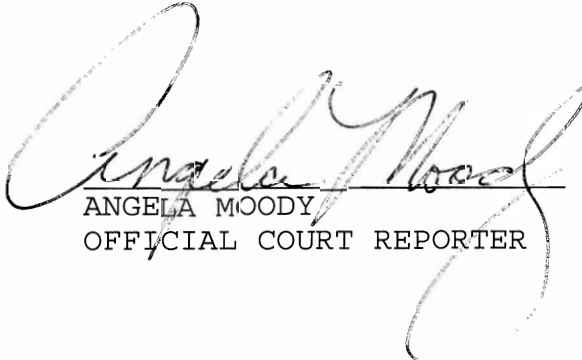
7 COURT OFFICER: You're free to go.

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