

Our reinvented Wheel of Justice continues due process of law until Courts *end* violating the *no scapegoating law* ("NSL") inflicting 24/7 psychosis as evil ("Judicial Wounds"), *enforce* the NSL as good ("Judicial Cure") and *lift* the Royal Baby Bastard Curse ("BBC") on every purse.



08.10.2020

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The *no scapegoating law* ("NSL")¹ mandates Courts to use our reinvented Wheel of Justice included in this *checkmate* memorandum of law ("LKJMOL") with endnotes¹⁻¹⁰ for scientific DNA-matches to prove paternities as *the solution to the problems* created by unscientific marriages to coverup *his-her-sex* and *make* independent judiciary and independent journalism depend on truth to stay truthful, *always*.

Biased Majesty makes Courts *act above the law* thus *without* jurisdiction, authority or immunity in law ("Ultra Vires") doing vain or useless things² as nullities too like violating the NSL and inflicting 24/7 psychosis ("Judicial Wounds")³ and add up numbers wrong ("Constitutional Infidelity")⁴.

Judicial Wounds prove the self-inflicted Baby Bastard Curse ("BBC") on every purse making innocent babies illegitimate babies ("Bastard Babies") as void decisions, orders and/or judgments ("Void DOJs") by laws misapplied and unscientific marriage excuses ("Miscarriages of Justice" aka "Justicides").

Unbiased Majesty makes Courts *not end* due process of law as a nullity but *act under the law* thus with jurisdiction, authority and immunity in law ("Intra Vires"), *make* those who prove *also* win their cases and *end 24/7 psychosis* ("Judicial Cure") and add up numbers right ("Constitutional Fidelity").

Judicial Cure proves laws correctly applied and scientific DNA-matches as evidence of sex and paternity *lifting the BBC* ("Justice") making men seeding women besides their own wives, even unwed women, illegitimate fathers ("Bastard Fathers") as valid DOJs ("Valid DOJs"). *It makes* injurers, paid more for wrongdoings than for rightdoings ("State Created Danger"), make their injureds whole⁵ with *Mandatory Restitution* ("State Confirmed Security")⁶. *It penalizes* lexical, moral, sexual, judicial, ethical, ... spiritual predators *zealous lawyers*,⁷ *politicians* and enshrined government officers ("EGOs")¹ as *willful perjurers for misusing taxes*⁸ to commit *Justicides* and other crimes causing unconscionable injuries⁹ to scapegoated babies, mothers and other innocents *terrorized* by them ("Judicial Trafficking" aka "Human Trafficking")¹⁰. *It pardons even LKJESQ to help end Judicial Wounds cartooned below.*

END JUSTICIDE

BEGIN JUSTICE

SAVE LIVES

SAVE TAXES

Lady Justice



Lady Liberty



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

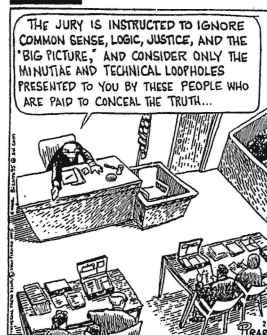
June 25, 1996 DOCKETED JUL 12, 1996.
DENIED DEC 02, 1996.

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.

BIZARRO



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

Legally Certified by LKJESQ: This LKJMOL for mandatory use in all cases *is* the divine legacy for free printing at www.TruthIsPrudence.Com even after LKJESQ is silenced for protecting all Courts to end Constitutional Infidelity.™

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

A1-A4

LKJ
01/04/2021

“Good Law Day” was born in a NY Court on Oct 31, 2013/LKJMOL 08.10.2020/ www.TruthIsPrudence.Com LKJESQ Enforcing the NSL for guaranteed Justice is prevention of Justicides to end rapes, even murders, as worse than the Biblical Evil sold as legal freedom since inability to unrape the raped or unmurder the murdered proves prevention of Judicial Wound is better than Judicial Cure.

¹ “[p20] ...**Court:** ... I do find the defendant **guilty** ... unless you [**Jain**] want to be heard... [p21] **MR JAIN:** Yes ... [p22]. **Court:**...Parties step up **real quick**. (Whereupon a **bench discussion** was held) ... **Court:** After re-examining the statute more closely...as **I reread it, many, many more times**, my initial reading of it **was incorrect [inflicting a Judicial Wound in a political world]** ... [p23]... **I have to change** my verdict [of **guilty**] to **not guilty [as the Judicial Cure in a truthful world]**. Case dismissed. ... ¶ **Court Officer: You’re free to go.**”

LKJESQ helped the NYS Queens County Criminal Court to **end** being a victim of the common law tradition, **make** the constitutionally mandated immediate u-turn in the **unreported People v Onuorah** case in **duly attached 25-page Oct 31, 2013 Official Transcript** in Docket No. 2012QN040877, **enforce** the **no scapegoating law** (“**NSL**”) and **honor the world’s first role model truthful jurist Zoll for all political jurists to upgrade too**.

The **NSL** is the **baby-making-law** given by everyone’s **One Creator** for **self-enforced Justice without delay**.

This is God’s Good Sovereignty for good law enforcement aka Constitutional Fidelity to end Government’s Bad Sovereignty for bad law enforcement aka Constitutional Infidelity by bad politicians and jurists together.

Real Clear Politics is a Scam using marriages to coverup, not DNA-matches to prove, **his-her-sex etc**.

Babies doing no wrong and **Mothers** admitting sex and maternities **symbolize the truth**. **Fathers** denying both **symbolize his lie sold as the law of the land**. **Violating the NSL is Justice denied, even crucified, by Justicides**.

The **top** appeals court, the Supreme Court of the United States (“**SCOTUS**”), scripted Rule 10 to **rarely correct** “erroneous factual findings or the misapplication of a properly stated rule of law.” Until Courts exonerate all babies-in-fact scapegoated as bastards-in-law in the truthful world created by the Creator, lying men and lying Courts will keep lying and keep relying on lying that men had no sex that men did have in their political world. **Acts above the law are void as Ultra Vires. Acts under the law are valid as Intra Vires.**

“...where a court has jurisdiction [to act **under** the law thus **with** jurisdiction, authority **and** absolute judicial immunity in law], it has a right to decide every question [**of law and fact**] which occurs in the cause ... But if it act [**above** the law thus **without** jurisdiction, authority **or** absolute judicial immunity in law], its judgments and orders [**violating the NSL**] are regarded as **nullities**, all [**policemen, lawmen, laymen and others alike**] ... **executing [nullities]** are considered **in law** as trespassers [**in law as conspiring injurers** (“**Outlaws**”) **with no executive immunity from being ordered to make their injureds whole since day one**].”

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

“A void act ... **may be attacked in any forum**, state or federal, where its validity may be drawn in issue.”

Pennoyer v Neff, 1878, 95 US 714, 732-733, World-Wide Volkswagen Corp. v. Woodson, 444 US 286.

“... **relief** from void judgments is not subject to any time limitation ... **relief** is not a discretionary matter; **it is mandatory**...[injurers shall give back to injureds all properties held in constructive and/or deemed trusts **with punitive awards** for Justice delayed/crucified by Justicides making relief from and redress for pain and suffering **caused by Justicides mandatory** (“**Mandatory Restitution**”); **no deterrent punitive awards to end predation are “grossly excessive,” TXO Production Corp. v Alliance Resources Corp., 1993, 509 US 443**].” **Orner v Shalala, Colo. 1994, 10th Cir, 30 F3d 1307, 1310. Limone v US, 2011, 815 FSupp2d 393.**

Using the reinvented Wheel of Justice is mandatory to penalize lying public prosecutors and Guardians Ad Litem (“**GALS**”) **torturing** babies and elderlies as **Bastard Babies** and **Bastard Elderlies, end pregnancy and death threats to females from RAPE as more fatal than death threats from COVID** and **penalize using lies** as laws to commit **Justicides protecting rapists making Evil Govs win, Good Gods lose, and lives of lies go on**.

It mandates Judicial Cure for Judicial Wounds inflicted by the 2019 void acquittal of Rev George Pell as Justicide violating the **NSL** after the 2019 valid convictions as Justice enforcing the **NSL, isn’t it?**

LKJESQ predicts that lying Courts shall end playing politics and lift the self-inflicted evil thus Royal baby bastard curse (“**BBC**”) **rooted in the iconic baby is bastard legally enshrined** (“**BIBLE**”) as **the Biblical Evil**.

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

² “The law requires no one [, **not even jurists**.] to do vain or useless things [**evidencing Courts’ Biased Majesty**].” **Strasbourg v Leerburger, 1922, 233 NY 55, 60; Cole v Macklowe, 2009, 64 AD3d 480.**

“[571] ... **Judges [aka jurists] personify** the justice system upon which the public relies to resolve all manner of controversy, civil and criminal [**never violating the inviolable NSL**]. 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. A Judge’s conduct that departs from this high standard erodes the public

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confidence in our justice system so vital to its effective functioning ...*That petitioner's conduct was not directly related to his judicial office is immaterial* ... (see, 22 NYCRR 100.2 [a] ... [“A judge *shall* respect and comply with the law and *shall* conduct himself or herself *at all times* in a manner that promotes public confidence in the integrity and impartiality of the judiciary [*enforcing the NSL*]”; 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* [573]...and [*dishonest*] Rudolph L. Mazzei is *deemed removed* from the office of [*honest*] judge.” *Matter of Mazzei v State Commission on Judicial Conduct*, 1993, Ct App, 81 NY2d 568, 571-573.

- ³ “We are not final because we are infallible, but *we are infallible because we are final* [errorists who will keep making wrongdoers, *same as us jurists, keep believing that they are rightdoers*].” *Brown v Allen*, 1953, Justice Jackson, 344 US 443, 540. *All Courts’ Biased Majesty will keep evidencing Constitutional Infidelity*.

“...if you think that it is terribly important that the case came out wrong, *you miss the point of the common law* [*of Biased Majesty*]. In the *grand scheme of things*, whether the right party won is really secondary.” *A Matter of Interpretation*, Federal Courts and the Law, p6, 1997, by SCOTUS Justice Scalia.

- ⁴ As require by law, LKJESQ has to make *historic apologies* for *historic legal help* that makes Courts honor their own *Unbiased Majesty enforce* the NSL and end their own *Biased Majesty violating* the NSL.

- ¹ *May it please* all courts, political parties and people together *to please pardon LKJESQ, licensed to practice law in India as well, for his historic legal help to begin* to honor babies who don’t deserve to be the lawless foundation of, and the self-proving birth defect in, all manmade legal systems to scapegoat them as bastards evidencing *politics* in bedrooms and courtrooms alike as guilty acts with guilty minds of *Courts torturing* lives?

- ² *Even in timely filed legal actions by innocents like babies and mothers, all Courts commit Justicides* (crimes like homicide in law and *sins* like blasphemies in all religions), *scapegoat* innocent babies as bastards and innocent mothers as *sex offenders, honor truthless thus ruthless jurists and zealous lawyers as truthful instead and guilty fathers as Holy Fathers violating the NSL and make* filing legal actions now a vain or useless thing, *Strasbourg v Leerburger. Judicial Cure* tolls all Statutes of Limitations until all Courts *end Judicial Wounds from Justicides on their own and/or upon reading this Great Self-Correcting-Scripture* scripted by LKJESQ who is sorry being forced by *Constitutional Infidelity* to take decades to script these four amazing pages.

- ³ *Constitutional Fidelity is Courts to reconfirm Justice without delay* as the *State Confirmed Security* since paternities and maternities are the two *intertwined thus inseparable guaranteed sides* of every reproductive sex proved by legitimate babies as evidence, *honor Holy Mothers* accepting undeniable maternities, *end using “lies”* as “*laws*” to *scapegoat innocent babies as Bastard Babies forcing babies doing no wrong to live lives as bastards and end illegitimate politics as Bastard Politics of men impregnating* women besides their own wives, even unwed women, and *denying sex and paternities* as the *State Created Danger* from *willful perjurers*.

- ⁴ *Neither Trump nor Biden* as POTUS to be sworn in on 01.20.2021, like Washington as 1st POTUS was sworn in on 04.30.1789, *will end* ancient *BBC* and modern *COVID as proof* that the 1776 Declaration of Independence from *enforcing the NSL is the common law tradition* that makes *American Congress, like British Congress, not Progress but Regress*. Both will keep begging for \$5 donations to fund self-serving dirty political elections for dirty personal gains *until* truthless, ruthless, lawless, unethical, immoral, unbelievable, political thus dishonorable jurists *upgrade* into truthful, lawful, ethical, moral, believable, unpolitical thus honorable jurists.

- ⁵ “... *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 [*violating the NSL*] (*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, will allow him [or her] to enjoy the fruits of crime [blessed by all Courts together violating the NSL]*.” *Riggs, supra*.

“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 lying, relying on lying, committing Justicides crucifying Justice repugnant to Good Gods’* due process of sex (sex in Latin) for *self-enforced Justice with no need to go to Courts making the man whose sperm impregnated the woman his baby’s father and promoting Evil Govs’* due process of law (*lex*) misused as due process of *lie violating the NSL to sell Justicide as Justice*].”

Cardozo, J., 1921, The Nature of the Judicial Process, p. 41, *Evil legal and judicial scripture to learn to lie*.

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6 “... [565] In matters of *ethics, appearance and reality often converge as one*. See *Offutt v United States*, 348 US 11, 14 (1954) (“[J]ustice must satisfy the appearance [*and reality*] of justice”); *Ex parte McCarthy*, [1924] 1 KB 256, 259 (1923) (“[J]ustice should not only be done, but should manifestly and undoubtedly be seen to be done”). I do not see how the appearance of fairness and neutrality can obtain *if the bare possibility of a fair hearing [violating the NSL]* is all that the law requires. Cf. *Marshall v Jerrico, Inc.*, 446 US 238, 242 (1980) (noting the importance of “preserv[ing] both the appearance and reality of fairness,” which “generat[es] the feeling, so important to a [good] popular government, that justice has been done [*enforcing the NSL*]”) (Quoting *Joint AntiFascist Refugee Comm. v McGrath*, 341 US 123, 172 (1951) (Frankfurter, J., concurring)). *Liteky 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 [*for guaranteed enforcing the NSL*]...”

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 *Justice should not only be done, but should manifestly and undoubtedly be seen to be done [enforcing the NSL]*...” ...What I find sad is the way in which standards of justice *have been allowed to slip [making Courts, even the top appellate Supreme Court of the United States (“SCOTUS”), same as all lower Courts, still use AJI to still violate the NSL]*...”

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

7 “...when an opposing [*injured*] party is *well represented [pro se or by truthful advocate enforcing the NSL]* using evidence of injuries caused by the injurers] ... a lawyer *can be a zealous advocate [as a lex offender hired for Justicides like hitmen hired for homicides]* on behalf of a [*n injurer*] client and *assume* that justice is being done [*by him or her and Courts violating the NSL* scapegoating babies as *Bastard Babies in sexabuse cases making an ass of you and me*].” *Model Rules of Professional Conduct: Preamble, A Lawyer’s Responsibilities* ¶8 is *masterminded* by ABA to *please conspiring* President of the United States (“*POTUS*”), *SCOTUS*, *Congress*, *churches*, *jurists*, *juries*, *lawmakers*, *pedophiles*, *sexual*, *lexual...judicial predators alike*.

8 “*Taxes* are what we [*are forced to*] pay for a [*miseducated*] *civilized society [evidencing ‘IN DEVIL WE TRUST IN DEVIL WE BELIEVE’ to make paternities controversial in Political Science violating Truthful Science of ‘IN GOD WE TRUST IN GOD WE BELIEVE’ keeping paternities uncontroversial]*.” *Compania General v Collector of Internal Revenue*, 1927, 275 US 87, 100, by *Justice Holmes, Jr.* “A *conspiracy* is a *partnership in criminal process*.” *US v Kissel*, 1910, *Justice Holmes*, 218 US 601, 608. The Constitution *does not make conspiracy a civil right [to keep violating the NSL]*.” *Dennis v US*, 1951, *Justice Jackson*, 341 US 494, 572. *All 100% jurists and zealous lawyers evidence violating the NSL as Constitutional Infidelity*.

9 “*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 [*live females, even Lady Justice and Lady Liberty as well*.] but also to *her mind* which will *last forever [as weaponized politics is weaponized penis making police not stop/ticket/arrest/fine but honor rapists causing injuries to enjoy dirty predation yet stop/ticket/arrest/fine motorists causing no injuries just for dirty moneys]*.” *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*.

10 “...if two *policemen see a rape* and watch [*weaponized penises*] just for their own amusement, no violation of the Constitution [*for predation*] ... (*laughter*)” by *SCOTUS CJ Rehnquist* at <http://tinyurl.com/pnu9lrj> from 39:00 to 41:00 minutes in the Nov 2, 1988 Court Transcript, *May It Please the Court*...Transcripts of ... Landmark Cases before the *SCOTUS*...1993, p39-60 at p46-47, *DeShaney v Winnebago County* reported as 1989, 489 US 189. It proves that the *State Confirmed Security from enforcing the NSL as Constitutional Fidelity reconfirmed* on Oct 31, 2013 in endnote¹ *has to end the State Created Danger from violating the NSL as Constitutional Infidelity that will keep promoting legal, medical, ethical, moral...spiritual infidelities since injurers’ willful perjuries, in and of themselves, reprove their injureds’ cases at all times*.

Lift the BBC. End the coronavirus. Both create 24/7 psychosis. Doctors also confess. Isn’t it? 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:

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

COURT REPORTER MINUTE AGREEMENT FORM
(Private Party Transactions)

Please Type or Print Clearly

Criminal

Court,

Queens

Part No.

JP 1

Name of Judge/Justice

Zoll

Name of Case

Anthony Onuorah

3. Court Docket File/Index Number

2012 QN 040877

4. Date(s) of Minutes Requested

10/31/13

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

Arrangement

Application

Hearing

Plea

Trial

Sentence

Other (specify):

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10/31/13

Date of Agreement

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Name of Attorney/Party

Firm/Address

Telephone Number

Fax Number

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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

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

3 MR. JAIN: Yes, Your Honor.

4 THE COURT: What would you like?

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

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

16 MR. JAIN: Right.

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

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

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

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

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

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

7 Do People want to be heard as to sentence?

8 MS. PISCIONERE: No, Judge.

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

11 (Whereupon a bench discussion was held.)

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

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

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

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1 subsections that follow.

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

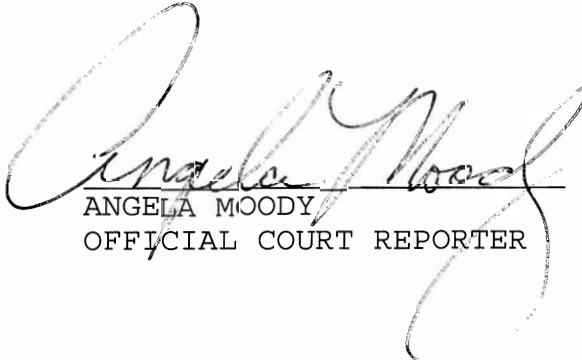
7 COURT OFFICER: You're free to go.

8 THE DEFENDANT: Thank you, Your Honor.

9 MR. JAIN: Your Honor, thank you.

10 * * *

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

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16 
17 ANGELA MOODY
18 OFFICIAL COURT REPORTER
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