

► Our help is 100% correct for mandatory relief from men's crazy toxic unconstitutional penile sovereignty ("Tyranny").™ ◀

08.10.2022
UPGraded
08.10.2023

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

Mandatory use of this LKJMOL A1-A4 with authorities in endnotes¹⁻¹⁰ ends Tyranny and its threats in all nations.

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].

The law in all cases made unbiased Law Offices of Lalit K Jain Esq ("LKJESQ") script and share this unbiased Official memorandum of law ("LKJMOL") with authorities in endnotes¹⁻¹⁰ (A1-A4) for mandatory use as virtual legal help ("VLH") for valid final closures ("VFCs") approved by Governments and Courts to help mentally unfit judiciary ("MUP") upgrade into mentally fit judiciary ("MFJ") and powerful POTUS end everyone's acquired scapegoating syndrome ("ASS") abusing bipartisan toxic freedom of speech denying undeniable illegitimate paternities and sex together as penile sovereignty.

Truth-enforced unbiased valid Justice as truthisprudence ("TIP") is easy.¹ Lie-enforced biased void truthless ruthless miscarriages of Justice ("Justicides") as jurisprudence ("JIP")² abusing taxes³ for lying and relying on lying is hard. All Courts⁴ of jurists⁵ and lawyers⁶ do salute TIP ending JIP. It is easy.

With absolute judicial immunity ("AJI"), end one-man Tyranny practiced by three-branched governments.⁷ Give mandatory relief⁸ to all Tyranny victims. Enforce Federal equal protection of laws ("FEPOLs"). Make scientific DNA-matches⁹ used to convict murderers convict adulterers too, and vacate as void tickets to civil motorists violating traffic laws not causing injuries until police¹⁰ also ticket rapists violating sex trafficking laws causing injuries. Excuse LKJESQ for this Godsent help. So be it.

Thanks. Learn and live in truth Knowing Justice always insures nature.

It is interesting. Using this Official LKJMOL on TruthIsPrudence.Com as distinguished legacy of LKJESQ in all cases helps political system to upgrade into unpolitical system and all Courts to end traffickings in Justice, humans, etc. protecting all people in billions.™

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

Lalit K Jain
08.10.2023

- 1 "[p20]...Court:...I [a jurist] do find the defendant guilty...unless you want to be heard ...[p21] MR JAIN: Yes ... [p22]. Court:...Parties step up **real quick**. (Whereupon a **bench discussion** was held [with **defending and prosecuting lawyers**])...Court: After re-examining the statute **more closely**...as I **reread it, many, many more times**, my **initial** reading of it [**being mentally unfit**] to convict [**civil motorist**] was **incorrect** ...[p23] ... I [**being mentally fit**] have to **change** my [**void scapegoating**] verdict to [**valid no-scapegoating verdict of**] **not guilty**...Case dismissed...¶ Court Officer: You're free to go. **People v Onuorah, Oct 31, 2013 25-page Trial Transcript proves mandatory use of unbiased virtual legal help ("VLP") for valid final closures ("VFCs") and makes the new self-correcting-system end lying and relying on lying as unconscionable thus unconstitutional.**
- ¹ **Cartoon above proves laws and Courts of law are lies and Courts of lie that made democracies with votes and autocracies without votes *hypocrisies with immunity and impunity the root cause of evil in all tax funded evil governments justifying unjust 2022 Russia-Ukraine War, 2001 US Ground Zero, 1941-45 Holocaust* ...**
- ² **"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 Woodwon, 1980, 444 US 286.
- ³ **Scope of disclosure. (a) Generally. There shall be full disclosure of all matter material and necessary in the prosecution or defense of an action, regardless of the burden of proof,...;" NY CPLR § 3101(a).**
- ⁴ **"The law requires no one to do a vain thing [but everyone to do valid things like delay legal actions until Courts of law as Courts of lie adding 1+1 as 11 committing Justicides have reportedly become Courts of truth adding 1+1 as 2 resurrecting Justice in all cases of Justicides no matter how old, new, easy, hard...different]."**
Strasbourg v Leerburger, Ct App, Hiscock, Ch. J., Cardozo, 1922, 233 NY 55, 59, 60.
- ⁵ **"We are not final because we are infallible, but we are infallible only because we are final [dangerous judicial terrorists committing Tyranny abusing Courts of law as Courts of lie acquitting less dangerous terrorists]."**
Brown v Allen, 1953, Justice Robert H Jackson, 344 US 443, 540.
- ⁶ **We are facing a principle more nearly ultimate than either waiver or estoppel, one 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 [: one, two, three, four and/or more that never make a right] (Riggs v Palmer, [1889] 115 NY 506)."**
Imperator Realty Co. v Tull, 1920, Cardozo J., Ct App., 228 NY 447, 457.
- 2 **Jurisprudence** for unsafe and unsound minds made **LKJESQ**--scapegoated, scammed and destituted by Federal, State and Local **governments** and others--**coin its antonym Truthisprudence** for safe and sound minds.
- ¹ **"Society in every state is a blessing, but [non-profit] Government, even in its best state, is but a *necessary evil* [with for-profit evil government offices ("EGOs"); in its worst state an *intolerable one* [for making good people invest millions to win EGOs like US President's Office, perpetuate conspiracy and in vain warn people of all ages including unborn babies: "Don't be a victim" of legalized scams: the evil grand scheme of things masterminded by we men as spermers in retaliation against women as Creators of both sexes]."**
Common Sense by Thomas Paine in 1776 who confessed but neither corrected nor lifted the BBC.
- 3 **"Taxes [and fines] are what we [are forced to] pay for [men's grand scheme of things as] a civilized society."**
Compania General v Collector of Internal Revenue, 1927, 275 US 87, 100, by Justice Holmes, Jr.
- ¹ **Men's grand scheme of things as a civilized society is 100% criminal that began by scapegoating as the crime of picking out and persecuting a person and his family into poverty and even committing suicides. Whenever two or more persons conspire to deprive a person of his or her constitutional and natural rights of [legitimate] Life, Liberty, Property, and the Pursuit of Happiness, then it is clear that *the federal crime of depriving a person of civil and constitutional right under "color of state law" is taking place...Scapegoating is an immoral, unethical, illegal, and Seriously Sinful violation of Natural Law and must be stamped out retroactively*]."**
<https://tinyurl.com/39x7dj3k>
- ² **"...But if you think that it is terribly important that the case came out wrong, you miss the point of the common law [(lie of unimpregnable men)]. In the [unimpregnable men's] grand scheme of things, whether the right party won is really secondary [because toxic interpretation of the Constitution abused by Courts for Tyranny will keep proving that it is the rule of man, rule of lie and rule of scapegoating out of wedlock babies and out of wedlock mothers by out of wedlock fathers that will keep on being sold as the rule of law that it is not, never was proved by Court-ordered death by stoning of women but not of men for criminal adulteries, <https://tinyurl.com/54rtv4kz>, killing of Judge Anand in India on Wed July 29, 2021 caught in security footage, <https://tinyurl.com/25hb6r4r>, for making the wrong parties win]."**

SCOTUS Justice Scalia, 1997, *A Matter of [Toxic] Interpretation, Federal Courts and the Law*, p.6.

- 4 "...Courts are the mere instruments of the will of the [basic] law [to establish Justice]. When they are said to exercise a discretion, it is a mere **legal discretion**...to be exercised in discerning the course prescribed by the law; and, when that is discerned, it is the duty of the court to follow it. Judicial power is **never** exercised for the purpose of giving effect to the will of the judge [to crucify Justice using men's lie as law that out of wedlock babies are guilty], always for the purpose of giving effect to the will of the legislature; ...the will of the law]." *Osborn v Bank of the United States*, 1824, *US CJ John Marshall*, 22 US 738.

- 5 "[Jurists] Judges [not committing fraud upon the Court by judicial lies (A1)] perform an incredibly important function in our society, and they must be able to do their jobs without **concern** for their **personal safety**]." *Outgoing 34th White House Press Secretary Jen Psaki said on 05.09.2022 defending lying judges (A1) creating Justicide victims against threats and pressures from them to stop.* <https://tinyurl.com/2p8wreff>.

- .1 "[571] ... 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 [ended by SCOTUS Rule 10]. A [lying] Judge's conduct that departs from this high standard erodes the public confidence in our justice system so vital to its effective functioning...["A judge...shall conduct **himself or herself** at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary [compromised by Rule 10]"; [emphasis added]; *Matter of Bailey*, 67 NY2d, at 62-63....[573]...Determined sanction accepted, without costs, and **Rudolph L. Mazzei is deemed removed**...."

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

- 6 §2106(a) mandates that the "statement of an attorney admitted to practice..., or of a physician, osteopath or dentist, authorized by law to practice..., **who is not a party to an action**, when subscribed and affirmed by him **to be true under the penalties of perjury, may be** served or filed in the action in lieu of and with the same force and effect as an affidavit [making untrue statements punishable perjuries by licensed professionals and/or by unlicensed unprofessional clients and/or patients **like out of wedlock babies who can do no wrong are guilty instead of out of wedlock fathers committing criminal adulteries and abandoning babies are not guilty**]."

- .1 "[8] ...when an [injured] opposing party is well represented [as non-lying pro-se or by non-lying lawyer], a [lying] lawyer can [but does not have to] be a **zealous advocate** on behalf of an [injurer] client and at the same time **assume** that justice is being done [by lawyering (lying) making Justicide by Courts crucify Justice]."

Model Rules of Professional Conduct: Preamble & Scope Preamble: A Lawyer's Responsibilities...[8].

- .2 "In all courts of the [US] the parties may plead and conduct their own cases **personally or by counsel** as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein [without judicial retaliation as judicial intervention]." 28 USCode § 1654 - *Appearance personally or by counsel*.

- .3 "[W]hile an attorney should represent his client with singular loyalty, that loyalty obviously does not demand that he act dishonestly or fraudulently [("Zealously")]; on the contrary, **his loyalty to the court, as an officer thereof**, demands integrity and honest dealing with the court [killed by acting Zealously]. And when he departs from the standard [loyalty to the court] ... **he perpetrates fraud upon a court** ... (ci[ting] cases)."

Demyanuk v Petrovsky, 1993, *Ct. App*, 6th Cir, 10 F3d 338, 352 [Emphasis added].

- 7 **One-man Tyranny** to keep making **unim pregnable men keep committing criminal adulteries** sold as civil out of wedlock sex with out of wedlock women **making and scapegoating out of wedlock babies is** legalized by legislative branches, enforced by executive branches, and approved by judicial branches **with impunity**.

"Judgments are, as it were, the **sayings** of the law [(lies)], and are received as truth [even if not the truth]."

"The term "**bastard**" or "**illegitimate child**" in a statute means **a child born out of wedlock**..., the term "**bastard**" or "**illegitimate child**" **shall not be used**, but the term "**child born out of wedlock**" **shall be used** in substitution therefor and **with the same force and effect [as proof of criminal scapegoating of a child who could not, thus did not, do any wrong in being forced to be conceived, born and scapegoated by lying and relying on lying father who could, and did, commit punishable criminal adulteries sold as civil out of wedlock sex with out of wedlock women, even rapes without consent, as criminal wrongs]**."

2022 NY Laws GCN - General Construction Article. "§ 59. **Bastard; illegitimate child**.

Scapegoatings by Justicides are **unim pregnable men's inhuman** rights to rape, frame and persecute **babies and im pregnable women** as guilty deprived of naturally basic rights to pleasures of legitimate lives, liberties, properties, and pursuits of happiness with peace of mind from births to deaths. **It is Tyranny to keep using**

men's lies as peoples' laws for self-acquired evil psychology or Baby Bastard Cult sold as Baby Bastard Culture ("BBC") and **self-inflicted baby-is-bastard-legally-enshrined with built-in-bias-legally-enforced ("BIBLE")**.

This proves that the truth, the whole truth and nothing but the truth will not be used until the BBC is lifted.

It proves four sides instead of **two sides of him-her recreational sex upgraded into procreational sex: man's side** is few minutes of **no-strings-attached pleasure**, **woman's side** is **nine months of painful pregnancy**, delivery and years of mothering **unless death during delivery**, **baby's side** is forced illegitimate conception and birth for life, and **family's side** is a baby of no man, of the people and a ward of the State **as the scapegoat** of the sex-predator abusing his most powerful personal penile weapon. **It made all Justices** of the top Supreme Court of the United States ("SCOTUS") **write and use Rule 10 as proof of Tyranny**: "A petition...will be granted only for **compelling reasons**....[but] is **rarely granted [for Justice]** when the asserted **error** consists of erroneous factual findings or the misapplication of a properly stated rule of law **[as proof of Justicides and Tyranny]**."

It makes all people in billions make belief in TIP and MFJ end belief in JIP, MUJ, ASS and Tyranny.

It ends prosecuting to the fullest extent of the law as **fullest extent of the lie forced to be received as the truth cartooned above** acquitting the guilty and convicting the innocents, even babies, as guilty.

It makes lawmakers correct misstated laws like § 26 US Code 401(a)(28)... "§ 59 making innocent out of wedlock babies are guilty and **Courts resurrect Justice** in millions of cases like Grillo v Nicoleita Legister, Jassal v Jain, Village of Irvington v Lalit Jain, Lalit K Jain Esq v Reddy Care, etc.

- 8 **"Furthermore, ... relief is not a discretionary matter; it is mandatory...**[citations omitted]." **Orner v Shalala, Colo. 1994, 10th Cir, 30 F3d 1307, 1310. With no right to cause destitution, properties are held in constructive and/or deemed trusts. No deterrent punitive awards as mandatory restitution to the injureds are "grossly excessive" since turning back time to re-live lives uninjured is impossible. TXO Production Corp. v Alliance Resources Corp., 1993, 509 US 443, 476, citing Browning-Ferris Industries v. Kelco Disposal, Inc., 1989, 492 US 257, 109 SC. 2909, 106 LEd2d 219. See also In Limone v US, 2007, 815 FSupp2d 393.**

- 9 **Making use of scientific** DNA-matches that are 99% proof as 100% proof of paternity to **enforce** him-her sex as **a bilateral contract by conduct with two side effects: legitimate paternities** for seeding their own wives but **illegitimate paternities** for seeding unwed women and others' wives and **maternities never denied by mothers.**

Abusing unscientific marriages that are 0% proof as 100% proof of paternities **is the toxic system** that unimpregnable men masterminded for riskfree sex **sexexploiting** impregnable women risking pregnancies.

- 10 **"...if two policemen see a rape [culture as live porn] and watch it just for their own amusement, no violation of the Constitution [by self-righteous rapists, juries, and jurists to let unimprwegnable men sexexploit and exploit women as Creators of men same as of women, policemen and policewomen in all nations alike]...(laughter)."** **Winning legal argument by prejudiced CJ Rehnquist, laughter at** <http://tinyurl.com/pnu9lrj> from 39:00 to 41:00 minutes in the Nov 2, 1988 Court Transcript, see **May It Please the Court...Transcripts of...Landmark Cases** before the **SCOTUS...1993**, pp39-60 at pp46-47, **DeShaney v Winnebago County, 1989, 489 US 189.**

- ¹ "It has to be stated that though the accused have not used any external weapon **[like guns, knives, bombs, etc.]**, they have used **most powerful personal weapon** i.e. **penis [as 24/7 recreative and procreative jack-hammers]** with which each one of them **[used men's lie as law that out of wedlock babies scapegoated by out of wedlock fathers are criminals]** have caused the most grievous injuries not only to the body of **[an impregnable woman as Creator of babies of both sexes but betrayed by males] but also to her mind."**

Scripted on page 202 in 232-page Apr 04, 2014 Decision at <http://tinyurl.com/plghcp2>, ¶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**, by Dr Mrs Phansalkar-Joshi **in India, as Rehnquist in US, law breaking jurists like journalists.**

- ² "[p 401] ... **Protection of...women** is a subject of **special concern to the state**...healthy **[protected]** mothers are essential to vigorous offspring, the **[mental and]** physical well-being of woman becomes an object of **public interest and care...to preserve the strength and vigor of the race [as public policy or divine policy with sound minds using TIP to end unsound minds not using TIP knowing that even jurists cannot unrape the raped]."** **People v Charles Schweinler Press, 1915, Ct App, Hiscock, J., Cardozo, J., 215 NY 395, 401, 409, 410, 411.**

LKJESQ admits being right when proved right for mandatory use of VLH for VFCs and claims I want to know to self-correct to become right when proved wrong. **All Tyranny victims agree with TIP and MFJ to end JIP, MUJ, Tyranny, ASS, and crucifixion of Justice by Justicides betraying everyone's belief in everyone's own nation to live and die with peace of mind to rest in peace made impossible when JIP does not let any one live, die or rest in peace. So be it. Thanks.** Learn and live in truth Knowing Justice always insures nature.

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

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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):

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Application

Hearing

Plea

Trial

Sentence

Other (specify):

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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.

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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

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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.

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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.

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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.

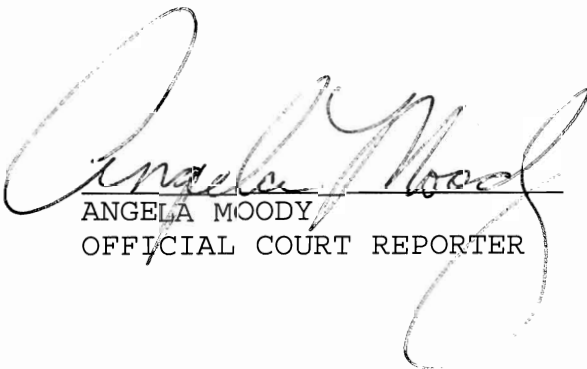
7 COURT OFFICER: You're free to go.

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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