

STATE OF NEW YORK  
TOWN OF LAKE GEORGE

TOWN COURT

---

PEOPLE OF THE STATE OF NEW YORK,

**DECISION AND ORDER**

Plaintiff,

-against-

Case No.: 23060

LORENA,

Defendant.

---

This matter comes to the court via simplified informations charging Defendant with violations of vehicle and traffic law sections 1180 (a) – speed not reasonable and prudent; section 600 (1)(a) – leaving the scene of a property damage accident; and section 1128 (a) – moved from lane unsafely.

The Defendant, represented by Benjamin Goldman Law Office P.C., Benjamin Goldman, Esq., of counsel, has moved for dismissal of the charges because, despite timely demand, supporting depositions were not filed and served in accordance with criminal procedure law section 100.25 and that the alleged violations of imprudent speed and moving from lane unsafely were not properly charged as they were not allegedly committed in the issuing Trooper's presence. The People, represented by the Warren County District Attorney's Office, Avi K. Goldstein, Esq., of counsel, have responded to Defendant's motion opposing dismissal.

The simplified informations charging the offenses directed the Defendant to appear or answer in this court on July 20, 2023. Defendant's counsel appeared, entered a not guilty plea and requested supporting depositions by faxed notice of appearance on July 14, 2023. By order dated July 14, 2023, the court ordered Trooper Hanaburgh to file and serve supporting depositions of all three charges upon defense counsel.

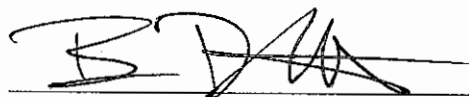
The People aver that a supporting deposition was timely filed with the court and cite the original accusatory instrument charging speed not reasonable and prudent in support of that argument. Criminal procedure law 100.25 (2) mandates that upon timely request for a supporting deposition, "the court must order the complainant police officer or public servant to serve a copy of such supporting deposition upon the defendant or his attorney, within thirty days of the date such request is received by the court, or at least five days before trial, whichever is earlier, and to file such supporting deposition with the court together with proof of service thereof."

Although the supporting deposition was filed with the court at the time the accusatory instruments were filed, there is no proof of service, either upon Defendant or her counsel. The simplified information charging imprudent speed notes at the bottom "Supporting Deposition Issued" but does not affirm that it was served upon Defendant or counsel. Where the court orders filing of a supporting deposition pursuant to CPL 100.25, failure to comply with the

order renders the accusatory instrument insufficient on its face. As it appears the supporting deposition was not served upon counsel as directed by the court on July 14, 2023, the statute is clear. The accusatory instruments are insufficient on their face. Defendant's remaining arguments are moot. The accusatory instruments charging speed not reasonable and prudent, moving from lane unsafely and leaving the scene of a property damage accident are dismissed as facially insufficient.

This constitutes the decision of the court.

November 4, 2024

A handwritten signature in black ink, appearing to read 'B. S. Reichenbach', written over a horizontal line.

Brian S. Reichenbach, Town Justice