

STATE OF NEW YORK, COUNTY OF ORANGE

TUXEDO TOWN COURT

THE PEOPLE OF THE STATE OF NEW YORK

-against-

DECISION

██████████ Defendant

Case Number: ██████████

On January 9, 2024, Defendant ██████████ was charged with speeding 106 miles-per-hour in a 65 mile-per-hour zone, a violation of Vehicle and Traffic Law § 1180(D), and failure to display a valid inspection certificate, a violation of Vehicle and Traffic Law § 306(B). Defendant was served a simplified information and appearance ticket at the traffic stop. He pled not guilty to the offenses and requested a supporting deposition.

By emails dated March 2, 2024, and March 7, 2024, Defendant requested adjournments of the March 6, 2024, and April 17, 2024, court dates. He failed to appear in court on May 15, 2024. Defendant's attorney appeared on July 17, 2024, but stated that he was unable to reach Defendant. Defendant failed to appear at the next court date on October 2, 2024. On December 4, 2024, the People offered to dismiss the VTL § 306(B) on proof and reduce the 11-point speeding violation to a 6-point speeding violation. Defendant rejected the People's offer and asked for an adjournment to the next criminal court date of January 15, 2025, for time to file a pre-trial motion.

On December 6, 2024, Defendant's attorney filed an omnibus motion seeking dismissal of the simplified information for failure to serve an Affidavit of Service of the Supporting Deposition pursuant to CPL § 100.25(2), and failure of the People to timely file a valid certificate of compliance pursuant to CPL § 30.30(1)(d).

The simplified information presented at the traffic stop clearly shows that the Defendant requested supporting depositions. Defendant does not dispute that a supporting deposition for the speeding charge was provided to him by the police officer but asserts that because an affidavit of service was not provided to the court, the simplified information is insufficient on its face pursuant to CPL § 100.25(2).

The Court agrees. Criminal Procedure Law § 100.25(2) states unequivocally that upon timely request, a defendant is entitled “as a matter of right” to have filed with the court and served upon him a supporting deposition “together with proof of service thereof.” See, (People v Garcha, 79 Misc 3d 128[A], 2023 NY Slip Op 50680[U], *2 [App Term 2023])(defendant is entitled to dismissal of the charges against him where supporting deposition was provided but not accompanied with any proof of service).

Based upon the foregoing, the Court hereby dismisses the § 1180(D) speeding violation and § 306(B) inspection violate against Defendant. Dismissal of the underlying charges renders Defendant’s CPL § 30.30(1)(d) motion moot.

The foregoing constitutes the opinion, decision and Order of this Court.

Dated: February 28, 2025

A handwritten signature in black ink, reading "Alyse McCathern" followed by a stylized flourish.

Hon. Alyse McCathern

Tuxedo Town Justice