

State of New York
County Court : County of Wayne

THE PEOPLE OF THE STATE OF NEW YORK

DECISION and ORDER
Index No. CV088470

against

ARACELY PASCUAL,
Defendant/Appellant.

Appearances:

Lorenzo Napolitano, Esq.
for the Defendant/Appellant

Michael Calarco, Esq.
Wayne County District Attorney
for the People

DECISION AND ORDER

Richard M. Healy, Judge

Appellant has been charged with a violation of Vehicle and Traffic Law section 1180D in the Huron Town Court on November 9, 2020. The Appellant plead not guilty and the Court eventually set this matter for a trial on August 23, 2021. On the date of trial the People admitted they were not ready for trial, but the record is not clear if the Appellant made a motion to dismiss at that point.

On August 24, 2021, the Appellant did file a written Motion to dismiss the charge. The People never responded to this Motion, nor did it appear the People opposed the Motion. The Court originally indicated to the parties that it would not make a decision on the Motion, but eventually wrote a letter to defense counsel dated February 2, 2022 setting forth its reasons for not granting the Motion.

The Court continued to adjourn this matter to new trial dates, over the objection of the Appellant, and he was convicted of V&T 1180.D on March 14, 2022.

The Appellant then filed a Notice of Appeal on March 21, 2022. The People have not responded to the Appeal except to indicate it stands on its record in Justice Court.

In accordance with Criminal Procedure Law section 30.30.(1)(e) a motion for dismissal of an action **must** be granted where the People are not ready for trial in a traffic matter within thirty days. In this case the Defendant was charged with a traffic violation on November 9, 2020. The trial was scheduled for August 23, 2021. The People announced on that date that they were not ready for trial. The next day the Defendant filed its Motion to Dismiss. The People did not oppose the Motion, therefore, it is hereby

ORDERED, that the Motion to Dismiss is hereby granted, the conviction of guilt in the Justice Court is hereby vacated.

Dated: April 24, 2023
Lyons, New York



Hon. Richard M. Healy
Acting Supreme Court Judge