

At a term of the County Court of the State of New York, held in and for the County of Clinton, at the Clinton County Government Center in the City of Plattsburgh, on the 9<sup>th</sup> day of September, 2021.

**P R E S E N T:** **HONORABLE KEITH M. BRUNO**  
County Court Judge

STATE OF NEW YORK  
COUNTY COURT CLINTON COUNTY

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THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-against-

HECTOR COMPANIONI DE LA PAZ,

Defendant-Appellant.

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**DECISION AND ORDER**  
Appeal No. 01-A-2021

APPEARANCES: THOMAS B. MAFRICI, Esq., Attorney for the  
Defendant-Appellant

**BRUNO, J.:**

Pending before this Court is the appeal of the defendant-appellant, Hector Companioni De La Paz (hereinafter "the defendant"). He appeals from a judgment and conviction out of the Town Court, Town of Champlain (the Hon. John K. Triller, presiding) dated November 4, 2020. The defendant had been convicted after a trial of the traffic infraction of speeding, in violation of Vehicle and Traffic Law §1180.

In connection with this appeal, the Court has reviewed and considered the following: the defendant's brief, including the attached record, which, in turn, includes a transcript of the trial before Judge Triller. The People took no position on brief, as stated in their letter to the Court dated September 1, 2021.

The relevant facts of this matter are not in dispute: the defendant was issued a speeding ticket in the Town of Champlain on August 3, 2020 for driving 47 miles per hour in a posted 30 mile per hour zone. The trooper who issued the ticket testified at trial that he had visually estimated the speed of the defendant's vehicle as 50 miles per hour in a 30 mile per hour zone. He first testified as to the training he had received from the New York State Police in making a visual estimate of speed and his qualification as a certified speed enforcement instructor. There was no other proof offered at trial and Judge Triller found the defendant guilty of the offense of speeding.

The crux of this appeal is what happened prior to the trial. The trooper did not turn over discovery in accordance with CPL Article 245. The discovery related to the documentation of the radar used by the trooper. As a result of this failure, Judge Triller imposed a sanction, in accordance with CPL 245.80, of precluding the trooper from

testifying with regards to the radar. The trooper then moved to amend the ticket, which alleged the defendant had gone 47 miles per hour in a 30 mile per hour zone to 50 miles per hour. Over the defense's objection, Judge Triller granted that request.

The defendant appeals his conviction alleging: (1) Judge Triller put the burden on the defendant at trial to prove his innocence; (2) the prosecution failed to prove the defendant was in a 30-miler-per-hour zone; (3) the radar reading shows the defendant did not travel at 50 miles per hour in a 30 mile per hour zone; (4) the motion to amend the ticket ought not to have been granted on the day of trial; and (5) since the trooper did not turn over discovery, the prosecution could not and did not declare readiness for trial, in accordance with CPL 30.30(1)(d) and (e).

Given the speedy trial violation, the Court need not address any other of the defendant's arguments.

CPL 30.30(1)(d) states that the prosecution must state readiness for trial within "thirty days of the commencement of a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a violation". CPL 30.30(1)(e) states that "offense" includes infractions under the Vehicle and Traffic Law.


Therefore, in this case, the prosecution had thirty days

from August 4, 2020 in which to declare readiness. In order to make a valid declaration of readiness, under CPL 30.30(5), the prosecution must either prior to or at the same time as the declaration of readiness file a certification of good faith compliance with the discovery required by CPL Article 245.

It is undisputed the discovery was not provided to the defendant in accordance with CPL Article 245. Thus, there could not have been any effective statement of readiness for trial made. Since the prosecution did not state readiness for trial, in compliance with CPL 30.30(1)(d), the charge must be and hereby is **DISMISSED**.

**IT IS SO ORDERED.**

E N T E R:

  
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KEITH M. BRUNO  
County Court Judge

Dated: Plattsburgh, New York  
October 19, 2021