



**JEFFERSON COUNTY COURT
CHAMBERS**

Jefferson County Court Complex
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Watertown, NY 13601

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HON. DAVID A. RENZI
County Court Judge

September 4, 2024

Benjamin Goldman, Esq.
108 S. Franklin Ave., Suite 17
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Via Email Only

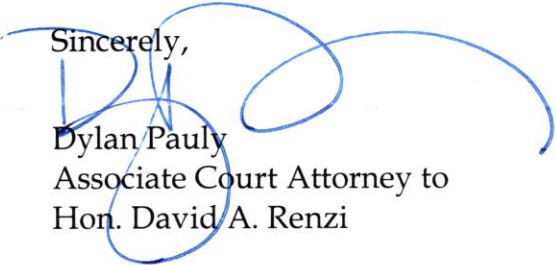
Morgan R. Mayer, Esq.
Jefferson County District Attorney's Office
175 Arsenal Street
Watertown, NY 13601

RE: People of the State of New York vs. Theresa Kratschmer
Adams Town Court

Dear Counsel:

Enclosed please find a copy of the Decision-Order regarding Ms. Kratschmer's pending appeal. The original is being filed in the Jefferson County Clerk's Office. Thank you.

Sincerely,


Dylan Pauly
Associate Court Attorney to
Hon. David A. Renzi

Enc.

cc: Jefferson County Clerk's Office (for filing)
Hon. Robert J. Newark, Town of Adams Court

At a Term of the County Court held in and for Jefferson County at the Courthouse thereof, in the City of Watertown, New York, on the 4th day of September, 2024.

Present: HON. DAVID A. RENZI
County Court Judge

PEOPLE OF THE STATE OF NEW YORK,

-against-

THERESA KRATSCHMER,
Appellant.

DECISION-ORDER

Index No.:
EC-Docket No.: 224-50217

PROCEDURAL HISTORY/FINDINGS OF FACT

This is an appeal from a judgement of conviction by the Hon. Robert J. Newark in the Adams Town Court. On December 27, 2023, following a brief bench trial, Justice Newark rendered a verdict finding the Appellant guilty of one count of Speeding in a Work Zone, in violation of §1180(f) of the Vehicle and Traffic Law (hereinafter "VTL"). The Appellant was fined \$250 and a surcharge of \$143 was applied (double the standard fee due to incident occurring in a work zone). The Appellant filed a Notice of Appeal on January 8, 2024. The Affidavit of Errors was filed on April 17, 2024. After some back and forth and clarification regarding process, the complete Record on Appeal was received by the Court. Both parties filed briefs and the Defendant filed a Reply brief. The Court has received and carefully reviewed all submissions in this matter, including a January 18, 2024 written submission by Justice Newark.

The Appellant presented three questions on appeal:

1. Did the trial court err in denying a Motion to Dismiss for Failure to Serve Discovery as untimely?
2. Did the trial court err in not dismissing the case after the People did not serve complete discovery?
3. Did the trial court err in convicting Appellant after elements of the charge were not proven?

CONCLUSIONS OF LAW

The Court is going to address the third issue first as it appears to be the most straightforward. Here, the Appellant claims that the People failed to prove each element of the offense during their initial direct examination of New York State Trooper Heath Rupert. Specifically, the People failed to elicit testimony from Trooper Rupert regarding the posted speed in the work zone. Prior to cross examination of Trooper Rupert, trial counsel moved for dismissal of the charge based on this omission. (T. at p. 10, ln. 10-13). Justice Newark denied the motion by stating, "...the law says 55." (Id. at pg 10, ln 14). Trial counsel then proceeded to cross examine Trooper Rupert. The People ultimately elicited testimony regarding the posted speed during re-direct.

VTL §1180(f) states, in relevant part, "...no person shall drive a vehicle through a highway construction or maintenance work area at a speed in excess of the posted work area speed limit. The agency having jurisdiction over the affected street or highway may establish work area speed limits which are less than the normally posted speed limit;

provided, however, that such normally posted speed limit may exceed the work area speed limit by no more than twenty miles per hour..." As such, as an element of the case, the People must provide evidence of the posted speed limit. Contrary to the trial court's assertion, the law does not establish 55 miles per hour as the speed limit for a work zone. Rather, the posted work zone limit must be within a 20 miles per hour of the normally posted limit. As such, on Interstate 81 the work zone limit could be as low as 45 and as high as 60.

The Court, generally, agrees with the People that the scope of redirect is left to the trial court's discretion; however, the Court finds the circumstances in this matter are distinguishable from People v. DeAndressi, 146 AD2d 642, 536 NYS2d 849 (2nd Dept., 1989). Specifically, in this case, prior to the People having the opportunity to remedy the omission of any testimony regarding the posted speed limit on redirect examination, the Appellant's trial counsel made a record of the omission and moved for dismissal based on the same. The trial court then rejected the motion based on the mistaken premise that the speed limit was expressly established by statute as 55 miles per hour. As such, the Court finds that the People failed to sufficiently present evidence during the direct examination of Trooper Rupert to establish every element of the offense charged.

Based on the foregoing, the Court need not reach the other issues raised regarding the sufficiency of discovery and the timeliness of trial counsel's pre-trial motion to dismiss.

NOW, THEREFORE, it is

ORDERED, that Appellant's appeal is granted and the finding that she violated VTL §1180(f) is vacated.

This decision constitutes the Order of this Court.

ENTER



HON. DAVID A. RENZI
Jefferson County Court Judge