

**STATE OF NEW YORK : COUNTY OF DELAWARE  
TOWN OF MIDDLETOWN JUSTICE COURT**

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**PEOPLE OF THE STATE OF NEW YORK**

vs.

**DECISION**

Index #23040028

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**CASE SUMMARY**

The defendant stands charged with Vehicle and Traffic Law §1180(D) Speeding 58/35 and §1120(A) Failure to Keep Right. Defendant is represented by Benjamin Goldman, Esq. with Attorney Codruta Antonovici appearing of counsel and the People are represented by Assistant District Attorney, David Rikard, Esq. A bench trial was held on August 27, 2024.

**TRIAL**

The People offered the testimony of Trooper Siobhan Carey. She testified on direct that she initiated a traffic stop on April 4, 2023 on Dry Brook Road, Arkville, Town of Middletown, Delaware County, for speeding and failure to keep right. At the conclusion of the Trooper's direct testimony, defense counsel made a motion to dismiss based on the People's alleged failure to identify the defendant in some way. The defendant was not present in Court, however, defense counsel had a Waiver of Appearance that authorized defense counsel to conduct all proceedings without the presence of the defendant. This would certainly preclude the Trooper from making a positive ID of the defendant within the courtroom, and thus the defendant could not cause the inability to be identified and then move to dismiss based on that. However, the motion was that the testimony did not include any proof that the Trooper received any identification from the operator of the vehicle at the time of the stop. Thus, the crux of the motion is that the People presented no evidence on direct testimony that the defendant was the operator. The Court reserved decision on this motion and, after the People rested their case and the defense did not present any evidence, the Court also reserved decision on the verdict.

## CONCLUSION

The defense motion requests dismissal based on the People's failure to identify the defendant. That motion would fail if based on the lack of an in-court identification since the defendant was not present at trial of her own volition. However, the motion was specific to the question of how the officer confirmed the identity of the operator of the vehicle. There was no testimony given at trial tying the charge to the defendant.

The People opposed this motion by pointing to the Uniform Traffic Tickets that were admitted into evidence – as the tickets all indicate the named defendant.

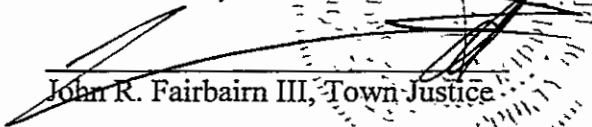
However, the People did not elucidate on direct (or on redirect) how the Trooper came to identify the defendant. No testimony was taken in which the operator of the vehicle provided identification or even gave her name to the Trooper.

The Court must determine the guilt or lack of guilt of the defendant beyond a reasonable doubt. Based on the People's failure to provide evidence confirming that the named defendant was the operator of the vehicle, the Court finds as follows:

1. Motion to dismiss for lack of identification is GRANTED; and
2. Defendant is found not guilty of both charges.

DATED: October 1, 2024  
Margaretville, New York

SO ORDERED,

  
John R. Fairbairn III, Town Justice