

# State of New York Court of Appeals

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## OPINION

This opinion is uncorrected and subject to revision  
before publication in the New York Reports.

No. 21  
The People &c.,  
Respondent,  
v.  
McKenzie Willis,  
Appellant.

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No. 22  
The People &c.,  
Respondent,  
v.  
Edward Martinez-Fernandez,  
Appellant.

Case No. 1:

Sylvia L. Altreuter, for appellant.

Anna Notchick, for respondent.

Center on Race, Inequality, and the Law; Fines & Fees Justice Center et al., amici curiae.

Case No. 2:

Sylvia L. Altreuter, for appellant.

Elliott R. Hamilton, for respondent.

Fines and Fees Justice Center et al., amici curiae.

TROUTMAN, J.:

These appeals implicate the standard for determining the facial sufficiency of misdemeanor complaints. Common to both appeals are defendants' contentions that the complaints upon which they agreed to be prosecuted were facially insufficient for failing

to assert evidence of a factual nature demonstrating reasonable cause to believe that defendants knew or had reason to know they were driving with suspended licenses in violation of Vehicle and Traffic Law § 511 (1) (a)—i.e., aggravated unlicensed operation of a motor vehicle in the third degree. We conclude that the Appellate Term properly affirmed defendants’ convictions because the misdemeanor complaints were facially sufficient.

**I.**

***People v Willis***

A police officer spotted McKenzie Willis driving in lower Manhattan in October 2018. The officer’s search of the electronic records of the Department of Motor Vehicles (DMV) revealed that Willis’s license was suspended at least three times for failing to answer traffic summonses. After stopping Willis’s vehicle, the officer arrested Willis and charged him by misdemeanor complaint with one count each of aggravated unlicensed operation of a motor vehicle in the second and third degree (Vehicle and Traffic Law §§ 511 [1] [a]; [2] [a] [iv]) and one count of unlicensed driving (§ 509 [1]).

***People v Martinez-Fernandez***

Defendant Edward Martinez-Fernandez, a taxi driver, was arrested after a traffic accident in the Bronx in July 2016. A police officer’s search of Martinez-Fernandez’s DMV records revealed that his license was suspended at least three times for failing to answer traffic summonses. Martinez-Fernandez was charged by misdemeanor complaint with reckless driving (Vehicle and Traffic Law § 1212); aggravated unlicensed operation of a motor vehicle in the second degree (§ 511 [2] [a] [iv]); aggravated unlicensed operation

of a motor vehicle in the third degree (§ 511 [1] [a]); and unlicensed operation of a motor vehicle (§ 509 [1]).

## II.

It is undisputed that defendants Willis and Martinez-Fernandez each waived prosecution by information, pleaded guilty to third-degree aggravated unlicensed driving in satisfaction of all charges, and were sentenced to a \$200 fine and an \$88 surcharge. In each case, the accusatory portions of the complaints alleged, among other things, that defendants were operating their motor vehicles while knowing or having reason to know that their licenses were suspended. The factual sections of each misdemeanor complaint contained averments that an officer (i) saw the defendant operating a motor vehicle; (ii) conducted a computer check of the DMV's records and determined that the defendant's license was suspended three or more times on at least three different dates for failing to answer, appear, or pay a fine pursuant to Vehicle and Traffic Law §§ 226 (3) or 510 (4) (a); (iii) knew that the defendant knew or had reason to know his license was suspended because traffic summonses have printed on them, "If you do not answer this ticket by mail within fifteen (15) days, your license will be suspended"; and (iv) understood that "[t]he suspension occurs automatically (by computer) within four weeks of a defendant's failure to answer." The complaints were further supported by DMV abstracts memorializing defendants' license suspensions.

Both defendants appealed to the Appellate Term contending that the misdemeanor complaints should be dismissed as facially insufficient because they failed to provide reasonable cause to believe that defendants knew, or had reason to know, their licenses

were suspended. Two unanimous panels of the Appellate Term affirmed. Both panels concluded that the misdemeanor complaints were jurisdictionally valid because they “described facts of an evidentiary nature establishing reasonable cause to believe that defendant was guilty of aggravated unlicensed driving in the third degree” (*People v Willis*, 79 Misc 3d 127[A], 2023 NY Slip Op 50631[U] [App Term, 1st Dept 2023]; *People v Martinez-Fernandez*, 79 Misc 3d 127[A], 2023 NY Slip Op 50630[U] [App Term, 1st Dept 2023]). Specifically, the Appellate Term found that the factual allegations in the complaints, including the DMV abstracts, “were sufficient for pleading purposes to establish reasonable cause to believe that defendant[s] knew, or had reason to know, that [their] license[s] [were] suspended” (*id.*).<sup>1</sup>

A Judge of this Court granted leave to appeal in each case (*see People v Willis*, 41 NY3d 967 [2024]; *People v Martinez-Fernandez*, 41 NY3d 984 [2024]).

### III.

“The usual instrument filed to obtain jurisdiction over an accused for a misdemeanor offense is a misdemeanor complaint” (*People v Kalin*, 12 NY3d 225, 228 [2009], citing CPL 100.05; 100.10 [4]). It contains an accusatory part charging the designated offense and a factual part alleging “facts of an evidentiary character supporting or tending to support the charges” (CPL 100.15 [3]; *see* CPL 100.15 [2]; *Kalin*, 12 NY3d at 228).

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<sup>1</sup> The Appellate Term did not reach the facial sufficiency of Martinez-Fernandez’s reckless driving charge given its conclusion that the complaint “was jurisdictionally valid with respect to the offense to which [Martinez-Fernandez] pleaded guilty” (*Martinez-Fernandez*, 2023 NY Slip Op 50630[U], \*1).

Crucially, a misdemeanor complaint “serves merely as the basis for commencement of a criminal action, permitting court arraignment and temporary control over the defendant’s person where there is as yet no prima facie case” (*People v Weinberg*, 34 NY2d 429, 431 [1974]). However, it “may not serve as the basis for a prosecution unless the accused expressly waives the right to be prosecuted by a misdemeanor information” (*Kalin*, 12 NY3d at 228, citing CPL 100.10[4]; 170.65 [1], [3]). Such a waiver allows a defendant seeking expeditious resolution of a case to consent to be prosecuted on a misdemeanor complaint—thus relieving the People of their obligation under a misdemeanor information to proffer non-hearsay allegations establishing every element of each charge (*see* CPL 170.65 [3]; *People v Casey*, 95 NY2d 354, 365 [2000]).

By waiving prosecution by information, a defendant “declines the protection of [§ 100.40 (1) (c)], and the accusatory instrument must only satisfy the reasonable cause requirement” (*People v Dumay*, 23 NY3d 518, 522 [2014]). Under that more lenient standard, “The factual part of a misdemeanor complaint must allege ‘facts of an evidentiary character’ (CPL 100.15 [3]) demonstrating ‘reasonable cause’ to believe the defendant committed the crime charged (CPL 100.40 [4] [b])” (*People v Dumas*, 68 NY2d 729, 731 [1986]). Reasonable cause exists when “information which appears reliable discloses facts or circumstances which are collectively of such weight and persuasiveness as to convince a person of ordinary intelligence, judgment and experience that it is reasonably likely that [an] offense was committed and that [a particular] person committed it” (CPL 70.10 [2]). So long as those disclosed facts or circumstances give defendants “notice sufficient to prepare a defense and are adequately detailed to prevent a defendant from being tried twice

for the same offense, they should be given a fair and not overly restrictive or technical reading” (*People v Konieczny*, 2 NY3d 569, 575 [2004] [internal quotation marks omitted]; *see People v Sans*, 26 NY3d 13, 17 [2015]).

#### IV.

The misdemeanor complaints here satisfy the reasonable cause standard. The complaints “state[d] the time, date and location of the[ ] events,” and otherwise “provide[d] [defendants] with enough information” of how defendants committed the crime “to put [them] on notice of the crime” and “to prevent defendant[s] from facing double jeopardy on the same charges” (*Dumay*, 23 NY3d at 524-526). Defendants knew from the complaints what they were accused of doing and where, when, and how they allegedly did it. Based on the complaints’ allegations, defendants could assess what defenses were available to them, such as contending that they never knew their licenses were suspended, that they were never served with a summons, or that the summonses didn’t warn them that their licenses would be suspended if they failed to respond.

Nevertheless, defendants contend that the complaints failed to provide reasonable cause because they did not specifically allege that defendants personally received the summonses. But reasonable inferences drawn from the sworn allegations in the complaints and defendants’ certified driving records defeat that contention. As the People explain, an officer must “deliver a [traffic] summons to the alleged violator” “after the occurrence of the alleged traffic infraction” (15 NYCRR 121.5 [n]; 122.4 [a]). Here, the numerous summonses issued to each defendant are sufficient to convince a person of ordinary

intelligence, judgment, and experience that it is reasonably likely defendants received at least one of them.<sup>2</sup>

Additionally, defendants' consent to prosecution by misdemeanor complaint relieved the People of their obligation under a misdemeanor information to proffer "[n]on-hearsay allegations establishing every element of each charge" (CPL 100.40 [1] [c]; *see* CPL 100.15 [3]; 100.40 [4] [b]; 170.65 [3]). Although that obligation—known as "the prima facie case requirement"—applies to an information, "[a] misdemeanor complaint, in comparison, need only set forth facts that establish reasonable cause to believe that the defendant committed the charged offense" (*Dumay*, 23 NY3d at 525).

Nor were the complaints deficient simply because they did not explain how the officers knew about suspension warnings appearing on traffic summonses or about those suspensions occurring automatically (by computer) within four weeks of a defendant's failure to answer those summonses. We do not require complaints to contain such "formulaic recitation" (*Kalin*, 12 NY3d at 231-32; *see People v Aragon*, 28 NY3d 125, 128 [2016]; *Sans*, 26 NY3d at 17; *Konieczny*, 2 NY3d at 575). Moreover, at this stage, the officers' statements about summonses "appear[] reliable" (CPL 70.10 [2]), inasmuch as the law tasks officers with delivering traffic summonses to alleged violators (*see* 15 NYCRR 122.4 [a]).

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<sup>2</sup> The misdemeanor complaint against Martinez-Fernandez provided additional cause to believe he knew or should have known his driver's license was suspended, inasmuch as it alleged that he was unable produce a valid license.

Our cases analyzing the sufficiency of misdemeanor complaints alleging criminal possession of a gravity knife are instructive. In *People v Dreyden* (15 NY3d 100 [2010]), a defendant challenged the sufficiency of a misdemeanor complaint merely stating that the arresting officer had seen the defendant “in possession of a gravity knife . . . in that [the officer] recovered said gravity knife . . . from defendant’s person” (*People v Sans*, 26 NY3d 13, 16 [2015] [internal quotation marks omitted], quoting brief and appendix for defendant-appellant in *Dreyden*, 15 NY3d 100, available at 2009 WL 6616034, \*3). We determined that conclusory language “failed to give any support or explanation whatsoever for the officer’s belief,” thus depriving the defendant of due notice of the charged crime and rendering the complaint jurisdictionally defective (*Dreyden*, 15 NY3d at 103).

In contrast, in *People v Sans* we rejected a defendant’s contention that, to be jurisdictionally valid, the misdemeanor complaint should have alleged the arresting officer’s training or experience in identifying gravity knives (*see* 26 NY3d at 17). We explained that the defendant misunderstood our decision in *Dreyden*, inasmuch as the law “do[es] not mandate that an officer recite that he or she has training and experience in identifying gravity knives or expressly state the origin of his or her skills in that area” (*id.*). Instead, the principle enunciated in *Dreyden* was that, “when an allegation involves a conclusion drawn by a police officer that involves the exercise of professional skill or experience, some explanation concerning the basis for that conclusion must be evident from the accusatory instrument” (*id.* [internal quotation marks omitted]). Consequently, we held in *Sans* that “the accusatory instrument sufficiently pleaded that the police officer

exercised his expertise” by simply “testing the knife and determining that it opened and locked in the manner proscribed by the gravity knife statute” (*id.* at 18).

The same reasoning applies to these appeals. Both misdemeanor complaints pleaded sufficient facts to infer that the officers relied on their professional skill and experience to determine that defendants knew or had reason to know they were driving with suspended licenses inasmuch as the complaints alleged that traffic summonses have printed on them, “ ‘If you do not answer this ticket by mail within fifteen (15) days, your license will be suspended’ ” and that “[t]he suspension occurs automatically (by computer) within four (4) weeks of the defendant’s failure to answer.” Those averments in the misdemeanor complaints, in addition to the DMV abstracts, demonstrate the officers’ nonconclusory bases for believing that defendants knew or had reason to know their licenses were suspended. Just as in *Sans*, no more was required because the officers established that they exercised their expertise through their averments about license suspension warnings on summonses and automatic suspensions (*see id.*). Those allegations, like the officer’s allegations in *Sans* about operating the gravity knife and comparing it to the statute outlawing such knives, were sufficient evidence of a factual nature from which a person could reasonably infer defendants knew or had “reason to know that [their] license[s] . . . [were] suspended” (Vehicle and Traffic Law § 511 [1] [a]). The truth of the allegations is an issue for trial. It is not a basis for dismissing a complaint for facial insufficiency (*see Dumay*, 23 NY3d at 525). Thus, the Appellate Term correctly determined that the complaints in these cases are facially sufficient.

Finally, Martinez-Fernandez contends that the complaint's reckless driving charge was facially insufficient. Inasmuch as Martinez-Fernandez pleaded guilty to the facially sufficient charge of aggravated unlicensed operation of a vehicle in the third degree in satisfaction of the entire misdemeanor complaint, we need not reach his challenge to the reckless driving charge (*see People v Pelchat*, 62 NY2d 97, 108 [1984]), nor his claim that the traffic infraction count should be dismissed.

Accordingly, in each case, the order of the Appellate Term should be affirmed.

For No. 21: Order affirmed. Opinion by Judge Troutman. Chief Judge Wilson and Judges Rivera, Garcia, Singas, Cannataro and Halligan concur.

For No. 22: Order affirmed. Opinion by Judge Troutman. Chief Judge Wilson and Judges Rivera, Garcia, Singas, Cannataro and Halligan concur.

Decided March 13, 2025