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COURT OF APPEALS

STATE OF NEW YORK

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PEOPLE,

Respondent,

-against-

NO. 22

EDWARD MARTINEZ-FERNANDEZ,

Appellant.

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20 Eagle Street  
Albany, New York  
February 12, 2025

Before:

CHIEF JUDGE ROWAN D. WILSON  
ASSOCIATE JUDGE JENNY RIVERA  
ASSOCIATE JUDGE MICHAEL J. GARCIA  
ASSOCIATE JUDGE MADELINE SINGAS  
ASSOCIATE JUDGE ANTHONY CANNATARO  
ASSOCIATE JUDGE SHIRLEY TROUTMAN  
ASSOCIATE JUDGE CAITLIN J. HALLIGAN

Appearances:

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1 CHIEF JUDGE WILSON: Next case is People v.  
2 Martinez-Fernandez.

3 MS. ALTREUTER: May it please the court, Sylvia  
4 Laura Altreuter of the Legal Aid Society, on behalf of  
5 Edward Martinez-Fernandez. I would like to request three  
6 minutes for rebuttal.

7 CHIEF JUDGE WILSON: Yep.

8 JUDGE RIVERA: Nice to see you again.

9 MS. ALTREUTER: It's been a long time. I was - -  
10 - I'm going to address the difference in Mr.  
11 Martinez-Fernandez's case with respect to the 511 charge.  
12 The only difference in the factual allegations underlying  
13 his complaint versus Mr. Willis' complaint is the  
14 allegation that he was unable to produce a valid license.  
15 As was talked about yesterday before this panel - - -

16 JUDGE TROUTMAN: And what impact does that have  
17 on this case versus the other one?

18 MS. ALTREUTER: None. The complaint charging Mr.  
19 Martinez-Fernandez is still facially insufficient. Not  
20 being able to produce a valid license does not mean, as was  
21 argued yesterday, that he knew or should have known his  
22 license was suspended. Not having a physical copy of your  
23 license has very little to do with knowing your suspension.  
24 When your license is suspended, you don't turn it in. And  
25 the fact that he, at some point, from his trip from the

1 traffic accident that he was involved in to when he was  
2 arrested - - -

3 JUDGE TROUTMAN: Did you say, when your license  
4 is suspended, you don't turn it in?

5 MS. ALTREUTER: That's correct.

6 JUDGE TROUTMAN: Aren't there instances where you  
7 have to surrender your license?

8 MS. ALTREUTER: I believe in certain cases there  
9 are. But that's not alleged here and not in all cases.  
10 But yes. Not in all cases. But there's also no  
11 connection. Mr. Martinez-Fernandez was arrested at the  
12 hospital. There's no reason that not being able to produce  
13 a valid license at some point between the accident and when  
14 he was arrested at the hospital means that he knew that his  
15 license was suspended.

16 JUDGE SINGAS: I mean, maybe solitarily, that's  
17 true, but I think in conjunction with everything else  
18 that's in the complaint, why isn't that a reasonable  
19 inference to say that, and by the way, he didn't produce a  
20 license, which the reasonable inference is he didn't have  
21 one or it was suspended? And then everything else that you  
22 just mentioned becomes a defense.

23 MS. ALTREUTER: It would be - - - I think it  
24 would be presumptive evidence that his license, that he  
25 didn't have a valid license, which would support the

1 traffic infraction, the VTL 509. It does not support the  
2 aggravated unlicensed driving of the VTL 511. And for all  
3 the reasons I talked about - - - the ~~the the~~  
4 form allegations, these boilerplate allegations about the  
5 summons and the language that's allegedly on the summons  
6 and that your license is suspended four weeks later by  
7 computer, are insufficient to show that he knew or he  
8 should have known his license was suspended.

9 I'll then turn to the reckless driving charge.  
10 So Mr. Martinez-Fernandez's case, the charge of reckless  
11 driving does not help this complaint survive. There are no  
12 nonconclusory allegations in the complaint that Mr.  
13 Martinez-Fernandez was doing anything unsafe, that he  
14 violated the rules of the road, that he was speeding, that  
15 he had been drinking or was in any way at fault in the  
16 traffic accident that followed.

17 CHIEF JUDGE WILSON: Well, he crossed the  
18 double-yellow line and the motorcycle hit him?

19 MS. ALTREUTER: Yes. And crossing a double  
20 yellow line is not per se illegal.

21 CHIEF JUDGE WILSON: No. But you do have to give  
22 way to traffic that has the right of way - - -

23 MS. ALTREUTER: And there's no - - -

24 CHIEF JUDGE WILSON: - - - on the other side of  
25 the double-yellow line, right?

1 MS. ALTREUTER: I'm sorry. Could you repeat the  
2 question?

3 CHIEF JUDGE WILSON: Sure. I mean, you cross the  
4 double-yellow line, the other traffic is coming the other  
5 way from the way you were going, right? That's necessarily  
6 true.

7 MS. ALTREUTER: Yes.

8 CHIEF JUDGE WILSON: And you have - - - if you're  
9 crossing, you have to cross with extreme care and make sure  
10 there's nothing coming at you.

11 MS. ALTREUTER: Yes.

12 CHIEF JUDGE WILSON: And the motorcycle crashed  
13 into him?

14 MS. ALTREUTER: Yes, but that - - - there's no -  
15 - - there's no evidence in the complaint that Mr. Martinez-  
16 Fernandez was at fault for that accident. What he says,  
17 and what's alleged in the complaint, is that the motorcycle  
18 was speeding when it hit him. There's no - - - the officer  
19 that swears at the complaint, she alleged that he caused  
20 the motorcycle to hit him. Causation is a legal  
21 conclusion, and there is no basis for the idea that Mr.  
22 Martinez-Fernandez was at fault for the accident. There's  
23 no allegation, for example, that he wasn't acting with  
24 care.

25 What he says is that he was trying to park, which

1 for many people, they take tremendous care when they're  
2 trying to park on the side of the street. And so for that  
3 reason, the entire instrument is facially insufficient.  
4 And so we would also ask that the remaining VTL 509 charge,  
5 the non - - - the traffic infraction that remains, be  
6 dismissed. There is no penological purpose in proceeding  
7 on that remaining charge, and the prosecution does not  
8 contest that. If there are no other questions, I'll see my  
9 time?

10 CHIEF JUDGE WILSON: Thank you.

11 MR. HAMILTON: Good afternoon, Your Honors, and  
12 may it please the court. Elliot Robert Hamilton for the  
13 People of the State of New York. The factual allegations  
14 in the misdemeanor complaint ~~complaint~~ and the  
15 reasonable inferences to be drawn therefrom supported each  
16 element of the charge, and in particular, provided  
17 reasonable cause to believe that defendant operated his  
18 vehicle while he knew, or had reason to know, that his  
19 license was suspended. And there were several facts that  
20 supported this conclusion based on the totality of the  
21 circumstances.

22 He failed to answer five separate traffic  
23 summonses, and by DMV regulation that was cited in pages 20  
24 and 21 of ~~of~~ the People's brief that it - - - those -  
25 - - those traffic summonses must be handed to the motorist.

1 And by being handed to the motorist with the language that  
2 was mentioned in the complaint, it put the defendant on  
3 actual notice that failure to answer within fifteen days  
4 would result in his license being suspended. That  
5 inference and that language was more than sufficient to  
6 provide the defendant an opportunity to prepare a defense  
7 and to prevent double jeopardy.

8 CHIEF JUDGE WILSON: Which ~~which~~ ones had to  
9 be handed to him by law?

10 MR. HAMILTON: Anything involving a moving  
11 traffic ~~traffic~~ violation. So - - -

12 CHIEF JUDGE WILSON: Well, so for example, the -  
13 - - where is it, failure to stop for a school bus?

14 MR. HAMILTON: That would be - - - my  
15 understanding is that that would be - - -

16 CHIEF JUDGE WILSON: There are school busses that  
17 have cameras attached to them, and there's camera tickets  
18 sent to people?

19 MR. HAMILTON: I don't know. I believe that  
20 there are cameras, and I don't know the - - - the  
21 specificity of how that would work. But in - - - but with  
22 respect to any time that an officer observes a traffic  
23 infraction and pulls over a ~~over a~~ motorist in  
24 violation of the VTL, they must hand over those summonses.  
25 It - - -

1 CHIEF JUDGE WILSON: Right. But I guess what I'm  
2 asking is, I'm not sure which one of these you're  
3 identifying as ones that must have been handed over. For  
4 example, disobeyed a traffic device sounds to me perhaps  
5 like running a red light, and there are red light cameras.  
6 Improper turn. You can't make a right turn on red in the  
7 city. That could be a camera violation. I don't know if  
8 they're issued for that, but do you - - - is there some - -  
9 - something authoritative you can point us to that would  
10 map to any of these, that would conclusively demonstrate it  
11 had to be handed to a person?

12 MR. HAMILTON: I would say that with - - - that,  
13 in our brief, we ended up citing - - - and we cited to try  
14 to specific moving violations - - - like moving violations  
15 as being required to be hand - - - that those summonses be  
16 handed to the motorist.

17 JUDGE TROUTMAN: And with respect to the school  
18 buses, for instance, there are private entities. They  
19 take a picture of your car and they send people tickets,  
20 sometimes months later.

21 MR. HAMILTON: That's possible, Your Honor.

22 JUDGE TROUTMAN: So how can we be sure this is,  
23 as the Chief said, that this is the type that mandated that  
24 he be given it?

25 MR. HAMILTON: I think you can - - - you don't -

1 - - that would be an issue - - - I would ~~-----I would~~  
2 submit that that would be more of an issue at trial where  
3 when looking at the actual summonses where they were as  
4 part of - - - when the DMV provides the notice - - -  
5 provide, like, if a DMV representative providing the notice  
6 of the suspension.

7 JUDGE TROUTMAN: So at least for sufficiency  
8 purposes, it's ~~-----it's~~ okay?

9 MR. HAMILTON: It's - - - right.

10 JUDGE TROUTMAN: It may not ultimately prevail at  
11 trial, but for pleading purposes?

12 MR. HAMILTON: That's correct, Your Honor. And  
13 because the defendant waived prosecution by information,  
14 you only need to view it under the reasonable cause  
15 standard.

16 JUDGE HALLIGAN: If they were - - - if we knew  
17 that, that the summons were all just delivered by mail,  
18 would that be sufficient? You're hypothesizing that at  
19 least some of them, I think, would have been handed to  
20 them. But ~~-----but~~ it also sounds to me like we can't be  
21 a hundred percent certain that that was the case based on  
22 what we have in front of us?

23 MR. HAMILTON: That's putting - - - I would say -  
24 - - I would say that's accurate. There are many ways - - -  
25 as my adversary pointed out, there are many ways that a

1 license could be suspended.

2 JUDGE HALLIGAN: Right. So let's ~~-----~~ let's  
3 assume that ~~-----~~ that we had a case where we knew that all  
4 of the summons were mailed, none of them were delivered by  
5 hand. Would that be sufficient on ~~-----~~ on a complaint and  
6 why?

7 MR. HAMILTON: It would be - - - it would be  
8 sufficient to know that - - - it would be ~~-----~~ and would  
9 be sufficient - - - would be sufficient ~~-----~~ and would be  
10 sufficient. And I would furthermore state that where the  
11 DMV abstracts, which was appended to the complaint, stated  
12 that he failed to answer - - - or failed to answer those  
13 summonses, you can reasonably infer that when the DMV - - -  
14 when the DMV has specific protocols for - - - and - - - for  
15 upholding, like the - - - upholding the VTL and they have  
16 the authority to suspend someone's license by failing to  
17 answer - - - or failing to answer, that you could that this  
18 that the fair inference that could be made for purposes of  
19 reasonable cause, that the basis for the suspension in this  
20 case - - - in this case was that he did actually receive a  
21 ~~-----~~ a summons directly.

22 JUDGE GARCIA: Counsel - - - I'm sorry. Having  
23 been mailed a number of nice photos of my car when family  
24 members were driving, I was under the impression that those  
25 tickets are to the automobile. So if something appears on

1 your own violation sheet as you violated the statute,  
2 that's not a mail ticket because you don't know who's  
3 driving.

4 JUDGE CANNATARO: Yeah.

5 JUDGE GARCIA: Right? It's just a registration  
6 ticket.

7 JUDGE CANNATARO: That was actually going to be -  
8 - - just as an append to that - - - it is - - - that was  
9 going to be my question to your adversary when ~~when~~ I  
10 was asking about failure to wear a seat belt being issued  
11 from a camera violation. I mean, unless you're using CIA  
12 facial recognition software, how do you know who's not  
13 wearing a seat belt - - -

14 JUDGE GARCIA: It's just a fine.

15 JUDGE CANNATARO: - - - on a camera violation?

16 MR. HAMILTON: No. And ~~Your~~ ~~and~~ Your  
17 Honors are correct about that. And there are many - - -  
18 there are many different summonses and moving violations  
19 that would append to the registration. That failure to  
20 answer those tickets will result in the registration of the  
21 motor vehicle being ~~being~~ suspended. And it's the  
22 same with parking tickets, which are completely separate  
23 and apart from - - - because those are - - - those ~~those~~  
24 ~~are~~ ~~those~~ are done - - - the - - - the ~~the~~  
25 agency that handles those is the local police force and

1 those - - - but with moving violations in particular the -  
2 - - the reasonable inference is that the DMV regulates  
3 that.

4 They uphold these rules and that the officer who  
5 is assumed to uphold those laws and pull over people are  
6 familiar with the paperwork that they end up handing over  
7 to a motorist that - - - that has that warning in there.  
8 And based on - - - and to Your Honor's question about the  
9 unable to produce a valid license, while it's true that  
10 it's not presumptive evidence that he had - - - that he  
11 knew his license was suspended, but it probably is  
12 presumptive evidence that he knew that his license was no  
13 longer valid.

14 And ~~and~~ we submit - - - and that all of the  
15 inferences made in the complaint illustrate the defendant  
16 had at the ~~at the~~ minimum, had reason to know that  
17 his license was suspended based on the reasonable cause  
18 standard. And if, Your Honor - - - and regarding the  
19 training and experience point, every time that this court  
20 has held that training and experience was necessary is  
21 where the ~~where the~~ deponent officer required that  
22 special expertise to allege critical facts to distinguish  
23 illegal conduct from legal conduct that you - - - that an  
24 officer needs to specify that excessive tints had to be  
25 below the seventy percent threshold as opposed to the legal

1 - - - as opposed to the legal limit, that an - - - that a  
2 defendant is holding a gravity knife as opposed to a pocket  
3 knife.

4 And those facts are ~~are~~ specifically  
5 important in those circumstances because the defendant - -  
6 - when an action is commenced, you don't want a defendant  
7 to be prosecuted wrongfully for legal conduct. Here, the  
8 officer is merely speaking about information that is set by  
9 law and regulation, and there is no special expertise that  
10 an officer utilizes when - - - to averring to these facts  
11 that are set out by the DMV.

12 With respect to point 2, I would ~~I would~~  
13 submit that the officer's observations of the video  
14 surveillance based on - - - under penalty of perjury,  
15 established reasonable cause to believe that he was driving  
16 recklessly when that, in addition to the officer's  
17 averments, pointing out where - - - where the officer saw  
18 the defendant's car in relation to the road shows the  
19 inference that not only when he tried crossing the double-  
20 yellow lines, he was moving from the southbound lane to the  
21 northbound lane, and the car seemed - - - appears to be  
22 perpendicular to the double-yellow lines, which directly  
23 resulted in the motor - - - in the blocking of the lane of  
24 traffic, which resulted in the motorcycle - - -

25 JUDGE SINGAS: But that wasn't in the complaint,

1 that description that you just gave, right?

2 MR. HAMILTON: Well, I would - - - on the first  
3 page - - - in the first page, Your Honor, I would say that  
4 the vehicle - - - that - - - I would say that the vehicle  
5 was sideways in the street blocking the northbound lane of  
6 traffic, so that - - - so in - - - and - - -

7 JUDGE CANNATARO: But that alone is not  
8 necessarily indicative of reckless driving; is it?

9 MR. HAMILTON: That - - - well, it's ~~it's~~  
10 indicative that at the time of the accident that he - - -  
11 that he ended up - - - that he blocked the - - - the free -  
12 - - the - - - the free exit - - - the free lane of traffic,  
13 which would - - - ~~which~~ but for the defendant's  
14 actions would have allowed the motorcycle to be - - -

15 JUDGE SINGAS: And that based on the - - - a  
16 videotape, correct?

17 MR. HAMILTON: So there was - - - it was based on  
18 the - - -

19 JUDGE SINGAS: The videotape wasn't attached to  
20 the complaint, but would have been handed over to convert  
21 it to an information?

22 MR. HAMILTON: It's - - - the video is not - - -  
23 is not required for purposes of conversion. But it's - - -  
24 but the ~~the~~ defense that the defendant - - - but it  
25 allows the defendant to - - - to prepare a defense as to



1 what he ended up - - - what he ended up saying, and the  
2 officer swearing to the contents of what she saw in the  
3 video. And if, upon receiving the video and discovery that  
4 allowed - - - that the defendant has the ability to watch  
5 the video, and if it so happened that the officer was not  
6 telling the truth, then it could be the basis of a motion  
7 to dismiss ~~--- a motion to dismiss.~~

8 And because - - - and even if Your - - - and if  
9 Your Honors do believe that the 511 charge was facially  
10 insufficient, because the reckless driving charge was  
11 facially sufficient, your - - - this court's holdings in  
12 People v. Keizer and People v. Thiam allow for a defendant  
13 to plead guilty to an insufficient charge as long as an  
14 equal grade misdemeanor charge was sufficiently pled. And  
15 we believe - - - and we submit that that was the case here.

16 If the court has no further questions regarding  
17 either of the two points, we ask that you affirm the  
18 appellate term's order.

19 CHIEF JUDGE WILSON: Thank you.

20 MS. ALTREUTER: To respond briefly, the  
21 confusion, I think, that's identified about how these  
22 particular summonses are distributed, whether certain ones  
23 by mail actually attach to the registration as opposed to a  
24 person, whether there are private entities that mail these  
25 summonses months later explain why for this complaint to be

1           facially sufficient, the officer needed to allege how these  
2           particular summonses were distributed for the purpose to  
3           establish that Mr. - - - that Mr. Martinez-Fernandez knew  
4           or should have known that his license was suspended the day  
5           that he was arrested.

6                       And then with respect to the reckless driving  
7           point, there's no allegation in the complaint, as the court  
8           observed, that he was perpendicular to traffic, that he was  
9           doing anything unsafe. The allegation was simply that he  
10          made a, quote, "illegal turn", which is a legal conclusion,  
11          and that he caused an accident, which is also a legal  
12          conclusion without evidentiary facts.

13                      And I want to briefly address how important it  
14          was for the complaint to be facially sufficient in this  
15          case. There was bail in Mr. Martinez-Fernandez's case. If  
16          he hadn't been able to pay it, he would have been at  
17          Riker's Island for two years away from his family while  
18          this case was pending. As the amici talk about in these  
19          cases, these cases are a way for the state to raise money,  
20          often at the expense of poor people and of people of color  
21          who need to drive for work. Mr. Martinez-Fernandez was a  
22          taxi driver. He was one of those people in this case, had  
23          a really dramatic impact on the rest of his life.

24                      And so I wanted to make that clear. And if there  
25          are no other questions, thank you, all.

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CHIEF JUDGE WILSON: Thank you.

(Court is adjourned)



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C E R T I F I C A T I O N

I, Christy Wright, certify that the foregoing transcript of proceedings in the Court of Appeals of Edward Martinez-Fernandez v. People, No. 22 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

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