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COURT OF APPEALS

STATE OF NEW YORK

PEOPLE,

Appellant,

-against-

No. 50

REBECCA GUTHRIE,

Respondent.

20 Eagle Street
Albany, New York 12207
February 19, 2015

Before:

CHIEF JUDGE JONATHAN LIPPMAN
ASSOCIATE JUDGE SUSAN PHILLIPS READ
ASSOCIATE JUDGE EUGENE F. PIGOTT, JR.
ASSOCIATE JUDGE JENNY RIVERA
ASSOCIATE JUDGE SHEILA ABDUS-SALAAM
ASSOCIATE JUDGE LESLIE E. STEIN
ASSOCIATE JUDGE EUGENE M. FAHEY

Appearances:

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Penina Wolicki
Official Court Transcriber

1 CHIEF JUDGE LIPPMAN: Good afternoon.
2 Great to see all of you. We're going to start with
3 number 50, People v. Guthrie.

4 Counselor, would you like any rebuttal
5 time?

6 MR. ROSENKRANS: One minute, please, Your
7 Honor.

8 CHIEF JUDGE LIPPMAN: One minute. Go
9 ahead. You're - - - you're on.

10 MR. ROSENKRANS: September 2009, a police
11 officer observes a vehicle run a stop sign - - -

12 CHIEF JUDGE LIPPMAN: Let's - - - let's
13 cut to the chase, counselor. What's the - - - what's
14 the stop sign all about? Is it a real stop sign? Is
15 it a version of a stop sign? Does it look like a
16 stop sign? Is it authorized under the local law?

17 MR. ROSENKRANS: It was not authorized
18 under the local law. The record that we are stuck
19 with makes no mention as to the size, dimension, or
20 even location.

21 CHIEF JUDGE LIPPMAN: What's the
22 consequence of the first point, that it's not
23 recognized under local law?

24 MR. ROSENKRANS: I think you have to take
25 into consideration the presumption that the same

1 statute gives, 1100(d), that it gives - - - absent
2 other legal competent evidence, there is a
3 presumption, although it's rebuttable, that the sign
4 is enforceable. And the officer made a stop based
5 upon seeing this vehicle pass - - - run through the
6 stop sign at fifteen miles an hour.

7 CHIEF JUDGE LIPPMAN: And was the - - - in
8 this particular case, why - - - what do you think was
9 the motivation of the officer? Was it a - - - did he
10 think under the law it was a sign - - - it was a real
11 stop - - - did he make a mistake of fact or a mistake
12 of law? And what's the consequence of all of that?

13 MR. ROSENKRANS: I believe he felt it was a
14 - - - I can't say what was in his mind. We're stuck
15 with the record that we've got. But I think - - -

16 CHIEF JUDGE LIPPMAN: Does it matter
17 whether it was a mistake of law or a mistake of fact,
18 why he stopped him?

19 MR. ROSENKRANS: That all depends if this
20 court adopts the rule - - - recent Supreme Court
21 ruling in the Heien case where the Supreme Court held
22 that a mistake of law, under certain circumstances,
23 does not invalidate reasonable cause or reasonable
24 suspicion for a stop. That you have to take - - -

25 JUDGE STEIN: Do we know how many stop

1 signs there are in - - - in this particular
2 municipality?

3 MR. ROSENKRANS: In the munici - - - total
4 municipality, or at this intersection?

5 JUDGE STEIN: No, in the municipality.
6 Because if we're going to talk about whether it's
7 reasonable or unreasonable, don't we need to know,
8 you know, if there's three stop signs in the
9 municipality, well, then obviously the officer should
10 know. But if there are 3,000, you know, maybe it's
11 not reasonable.

12 And - - - and is that - - - is that a line
13 we want to try to draw?

14 MR. ROSENKRANS: This - - - well - - -
15 that's not a line - - - that shouldn't be a line
16 based - - - because it would put an undue restraint
17 on the police officer. All the cases - - -

18 JUDGE PIGOTT: What's your best case? What
19 - - - what case do you think supports your position
20 the best?

21 MR. ROSENKRANS: The Estrella case for
22 state - - - on the state case where there was a
23 tinted window on a Georgia vehicle, and Georgia had
24 held that that law was unconstitutional. But the
25 officers at the time, making the stop, it was less

1 than what was permitted under - - - the - - - there
2 was more tint on it than what was permitted under New
3 York law. They had reasonable belief - - -

4 JUDGE ABDUS-SALAAM: And what kind of
5 mistake did we find that to be?

6 MR. ROSENKRANS: That was a mistake of law,
7 because in the meantime the - - - Georgia had - - -
8 Supreme Court had declared the - - - their statute
9 unconstitutional.

10 JUDGE ABDUS-SALAAM: Didn't we determine
11 that the officer had made a mistake of fact about
12 that as opposed to a mistake of law? About whether
13 the - - - the windows - - -

14 MR. ROSENKRANS: Well, that's the problem
15 with a mistake of law and mistake of fact argument.
16 How is the local officer to know?

17 JUDGE FAHEY: Well, the standard's
18 reasonable belief, right?

19 MR. ROSENKRANS: That's correct.

20 JUDGE FAHEY: Is - - - isn't that the
21 standard that you want us to adopt and - - - because
22 in fact, this was an invalid stop sign. So if - - -
23 if we don't adopt your reasonable belief standard,
24 then it was an illegal stop, correct?

25 MR. ROSENKRANS: Correct.

1 JUDGE FAHEY: And the Fourth - - - those
2 are Fourth Department cases. So as a recent
3 transplant from the Fourth Department, there's some
4 contradiction in the case law that you have Byers
5 which says one thing, and it seems to imply something
6 - - - and Estrella says something else. So there's
7 some ambiguity there.

8 But then you have the recent U.S. Supreme
9 Court case of Whren. And I think there's a Second
10 Circuit case, Spencer, that seems to argue in favor
11 of your point.

12 But you know, there's subtle distinctions,
13 and you may want to comment on it. Be some - - -
14 because some cases, for instance, somebody doesn't
15 turn on their left turn signal, and that stop was
16 held - - - and they weren't required to make a left
17 turn signal pulling out of a driveway. And since
18 that was - - - that was held not to be a violation of
19 the law, because it wasn't breaking of the law, but
20 you could argue that the officer had a reasonable
21 belief to make that stop.

22 Here we have the very same thing. Somebody
23 sees a stop sign, it's pretty reasonable to think
24 that a police officer sees he could blow the stop
25 sign, you've broken the law, except in point of fact,

1 lot?

2 MR. ROSENKRANS: - - - at the egress out of
3 the parking lot for Wegmans.

4 I think it's - - - the officer can also
5 take into consideration that based upon the time,
6 that this was not an emergent - - - someone making an
7 emergency run for diapers or milk, a late night run,
8 is not going to run that stop sign. He could
9 reasonably have believed that the driver was
10 intoxicated, which would change this to - - - elevate
11 this to the second level of DeBour, reasonable sus -
12 - - I'm sorry - - - reasonable - - - probable cause
13 that a traffic infraction has been committed or
14 reasonable cause - - - reasonable suspicion that a
15 crime was in fact in the process of being committed.

16 JUDGE RIVERA: So where do you draw the
17 line on the - - - the many reasonable hypotheticals
18 you've come up with why someone might act in a
19 particular way that a police officer might imagine,
20 in the moment? It sounds like a lot of speculation.
21 It can't be this; oh, I bet it's not for diapers; I
22 bet it's not for that. Where - - - where do you draw
23 the line? Or where would you like us to draw the
24 line? Let me put it that way?

25 MR. ROSENKRANS: This one - - - I think

1 this case drew the case for itself. I think it was
2 common sense for the officer to believe that that
3 stop sign that she had committed the violation of
4 Section 1172 of the Vehicle and Traffic Law.

5 JUDGE ABDUS-SALAAM: Counsel, do we - - -

6 JUDGE READ: But we'd have to follow - - -
7 we'd have to follow - - - we'd have to adopt Heien
8 right, in order to find in your favor?

9 MR. ROSENKRANS: Our briefs were submitted
10 prior to the Heien decision coming out.

11 JUDGE READ: But now you have that. I'm
12 assuming - - -

13 MR. ROSENKRANS: Yeah, I have that.

14 JUDGE READ: And I'm assuming - - -

15 MR. ROSENKRANS: And I also have - - - I -
16 - - -

17 JUDGE READ: - - - we - - - you think even
18 if we didn't - - - even if that were not the case,
19 even if the Supreme Court had not decided what it
20 did, that we could still rule in your favor?

21 MR. ROSENKRANS: Prior to that, I relied on
22 the presumption provided by 1180(d), which I don't
23 think they ta - - - the court took into
24 consideration. And there's several cases here - - -
25 in fact the standard is that you don't have to have

1 "beyond reasonable doubt" to survive a stop issue.
2 The question is what - - - was there reasonable
3 cause, not beyond a reasonable doubt.

4 JUDGE ABDUS-SALAAM: Is there another
5 section of the VTL that might assist you in this
6 argument, counsel? You mentioned 11 - - - I think
7 you said 1180(d) and you might have mentioned
8 1100(b). But what about 1110(c) which authorizes an
9 officer to presume that a traffic sign which looks
10 like an official traffic sign - - - we don't have it
11 in the record whether it was or it wasn't or what it
12 looked like - - - is an official traffic sign, that
13 it's proximately placed, does that help your cause at
14 all?

15 MR. ROSENKRANS: I think I misspoke. I
16 think that is the presumption that - - - the statute
17 that creates the presumption, is 1110(c). And I
18 apologize for that.

19 CHIEF JUDGE LIPPMAN: Okay, counsel. Let's
20 hear from your adversary, and then you'll - - -
21 you'll have your rebuttal.

22 MR. CORREIA: Thank you. May it please the
23 court, Andrew Correia for Ms. Guthrie, from the Wayne
24 County Public Defender's Office.

25 CHIEF JUDGE LIPPMAN: Counsel, is there a

1 bright-line rule here in these kind of situations?

2 MR. CORREIA: I - - -

3 THE COURT: Should it always be, if it's
4 not - - - not recognized by the locality, should it
5 always be no good?

6 MR. CORREIA: I - - - I think there is a
7 bright-line rule here. And I think you can base it
8 on cases that - - -

9 CHIEF JUDGE LIPPMAN: Is that the bright-
10 line rule?

11 MR. CORREIA: The bright-line rule would
12 be, this is a mistake of law. And if this is a
13 mistake of law, your cases already support the
14 determination that the law enforcement should not
15 benefit from making a mistake of law.

16 JUDGE READ: You're relying on Gonzalez?

17 MR. CORREIA: In part, yes. And also, we -
18 - - I've already talked about Byer v. Washington
19 (sic) from the Fourth Department, which is - - - I'm
20 sure - - - I know you are familiar with the facts - -
21 - a turn signal out of a parking lot.

22 JUDGE ABDUS-SALAAM: What about Estrella?

23 MR. CORREIA: Estrella, I think, can easily
24 be distinguished from this circumstance, because
25 Estrella dealt with an out-of-state law. And I'm not

1 sure, under any circumstances, it would be reasonable
2 to expect that local law enforcement would have
3 knowledge of out-of-state laws, never mind con - - -
4 the Constitutional status of those out-of-state laws.

5 JUDGE STEIN: But you do think that it's
6 reasonable to expect a local law enforcement officer,
7 no matter what the size of the municipality is, to
8 know which stop signs are registered?

9 MR. CORREIA: Fantastic question. That's
10 exactly why you shouldn't go down the road of
11 reasonability in this situation.

12 JUDGE STEIN: But if we do?

13 MR. CORREIA: Right. But if you do, you
14 will have a challenge, and you'll have a challenge in
15 every case that comes in front of you on this,
16 because you'll have to determine, not just
17 reasonability of how many stop signs are there in
18 Newark, which I do not know. However, there is a
19 list, and it's referred to in the local court's
20 original order - - -

21 JUDGE STEIN: Well, we know how many
22 registered stop signs there are, because the list - -
23 - I think it's about 130. But - - -

24 MR. CORREIA: Okay.

25 JUDGE STEIN: - - - but I have no idea how

1 many unregistered.

2 MR. CORREIA: You have more information
3 than I have. And certainly more than was in the
4 record.

5 JUDGE READ: Well, it's in the Code. It's
6 in the Code. It says - - -

7 MR. CORREIA: Right. But I'm looking at
8 the judge's order.

9 JUDGE RIVERA: But it's not every - - -
10 let's just clarify.

11 MR. CORREIA: Sure.

12 JUDGE RIVERA: The Code here isn't talking
13 about every traffic sign, it's talking about parking
14 lots.

15 MR. CORREIA: We're - - - right; right.

16 JUDGE RIVERA: So we're - - - we are
17 talking about a finite number of areas that you're
18 dealing with, which may not be unreasonable for the
19 local constable to be familiar with?

20 MR. CORREIA: I agree. And especially if -
21 - -

22 JUDGE PIGOTT: Let me - - - let me follow
23 you up - - - follow up on that. So if - - - if your
24 client was arrested by a state trooper, this would be
25 okay?

1 MR. CORREIA: No, no. Absolutely not.

2 JUDGE PIGOTT: So you don't mean - - -

3 MR. CORREIA: No.

4 JUDGE PIGOTT: - - - you don't mean a local
5 constable - - -

6 MR. CORREIA: I don't mean to go down that
7 road that varies by law enforcement agency.

8 JUDGE PIGOTT: I'm not trying to go down a
9 road. I'm just - - - I thought, you know, the
10 question was, you got a local constable who ought to
11 know where the stop signs are. And you said
12 absolutely right.

13 MR. CORREIA: Yes, sir.

14 JUDGE PIGOTT: If a state trooper makes the
15 same arrest, you're saying that's okay, because he's
16 not a local?

17 MR. CORREIA: Well - - -

18 JUDGE PIGOTT: In fact, you're saying the
19 opposite. You're saying no - - -

20 MR. CORREIA: Right.

21 JUDGE PIGOTT: - - - all - - - all New York
22 State police officers have to know whether or not a
23 stop sign is - - - is right or wrong?

24 MR. CORREIA: I'm going to say yes to that,
25 because if I don't say yes to that, it's not a

1 mistake of law. We're talking about a mistake of law
2 here.

3 Now, the real problem - - -

4 JUDGE ABDUS-SALAAM: Well, what about the -
5 - - counsel, what about the presumption under the VTL
6 - - -

7 MR. CORREIA: Right.

8 JUDGE ABDUS-SALAAM: - - - the officer is
9 presumed to be able to say this is an official sign?

10 MR. CORREIA: Sure. Let me get back to
11 you, Judge Pigott.

12 1110(d), I believe the language is:
13 "Placed in a position approximately conforming to the
14 requirements of this chapter, it shall be presumed to
15 have been placed by official act or direction of
16 lawful authority unless the contrary shall be
17 established by competent evidence."

18 I think the stipulation made in the local
19 court prior to the hearing, the basis of - - -
20 basically the factual basis for the finding, was that
21 it is not a registered stop sign.

22 JUDGE ABDUS-SALAAM: That's after-the-fact,
23 though?

24 MR. CORREIA: Sure. And I'm not sure the
25 statute's clear about how does an officer acquire

1 information that would establish it contrary to
2 competent evidence, unless we would expect that they
3 would have some familiarity with the unregistered
4 stop signs in their jurisdiction. I mean - - -

5 JUDGE READ: Why is - - - why isn't - - -

6 MR. CORREIA: - - - and I have a collateral
7 point to that that I'd like to - - -

8 JUDGE READ: - - - it enough that - - - why
9 isn't it enough for it to just look like a stop sign
10 - - - like every other stop sign?

11 MR. CORREIA: Sure. Because then I think
12 you open the door to private businesses, private
13 citizens, putting their own signs up - - - their own
14 signage. And let me be clear - - -

15 JUDGE PIGOTT: Well, I don't think that's
16 the - - - the social contract that we're worried
17 about violating, that people are going to start
18 putting up their own.

19 MR. CORREIA: Well - - -

20 JUDGE PIGOTT: Here's a situation - - - let
21 me - - - let me change this hypothetical or this
22 reality that we've got now. Instead of - - - instead
23 of a DWI, that this lady was charged with, let's
24 assume she had two children in - - - in her car that
25 were not properly belted or in - - - or in seats.

1 MR. CORREIA: Okay.

2 JUDGE PIGOTT: She walks? The officer
3 stops her. And - - - and - - - because she ran the
4 stop sign, and she's charged with endangering the
5 welfare of a child, because she doesn't properly fix
6 them in the car. She walks on that?

7 MR. CORREIA: Yes. She should. If the
8 initial intrusion was in violation of the Fourth
9 Amendment, if the stop of the motor vehicle - - -

10 JUDGE PIGOTT: If there was a robbery - - -
11 there's - - - there's nothing - - - there's no crime,
12 there's no violation of any type that can be
13 sustained if the initial stop was because an officer
14 assumed that a stop sign that was there was run, but
15 it's not registered.

16 MR. CORREIA: That is correct. And I say
17 that knowing that there are some severe consequences
18 to that.

19 However, if the only violation, as in this
20 case, the facts are very narrow. There is no other
21 violation - - -

22 JUDGE PIGOTT: Let me turn it around there.

23 JUDGE RIVERA: Well, you're only talking
24 about a stop sign in a parking lot.

25 MR. CORREIA: Right.

1 JUDGE RIVERA: It's not every stop sign.

2 MR. CORREIA: Right.

3 JUDGE PIGOTT: Let me - - - let me turn it
4 around. Let's assume for a minute that you - - -
5 you've got a - - - a college sticker on your back
6 window, which is a violation of the Vehicle and
7 Traffic Law, can that be used to stop somebody and
8 charge them with a vio - - - with a DWI?

9 MR. CORREIA: This hypothetical sounds
10 familiar to me.

11 JUDGE PIGOTT: I bet it does.

12 JUDGE RIVERA: I bet it does.

13 JUDGE PIGOTT: Burned in my brain.

14 MR. CORREIA: I'm going to say no. I'm not
15 in favor of that.

16 So I guess I did want to touch - - -
17 because you were concerned about law enforcement
18 agencies and whether it applies to all law
19 enforcement agencies. I think it has to, if it's a
20 mistake of law, because a stop sign standing in a
21 location in a parking lot is the culmination of an
22 entire legal process that starts with the V and T
23 Law, 1172, that incorporates 1100. The municipality
24 has to take action. And I don't want - - -

25 JUDGE PIGOTT: But in - - - in - - -

1 MR. CORREIA: - - - them to be let off the
2 hook.

3 JUDGE PIGOTT: - - - don't we look at the -
4 - - you know, whether or not there's reasonable cause
5 to believe something was done?

6 MR. CORREIA: Only if you adopt Heien. I
7 believe Judge Read might have posed that.

8 JUDGE READ: And by the way, do you think
9 Gonzalez is still good law after Heien?

10 MR. CORREIA: I think that we're fjording
11 that issue - - - that right now. I mean, if the
12 court decides to adopt Heien, then I think clearly
13 Gonzalez, I think, doesn't survive - - -

14 JUDGE READ: Well, I guess - - -

15 JUDGE RIVERA: It might raise a state
16 constitutional issues. Did you - - - did you raise
17 your claim under the state constitution?

18 MR. CORREIA: Yes. Yes, I - - - we did.

19 JUDGE RIVERA: Okay, so this is just a
20 question of whether or not we think our state
21 constitution should follow the Supreme Court's recent
22 wisdom on - - -

23 MR. CORREIA: Right. And I would suggest
24 that you do not need to - - -

25 JUDGE RIVERA: - - - on the federal

1 Constitution.

2 MR. CORREIA: - - - I would - - - thank
3 you.

4 JUDGE READ: Where, by the way, did you
5 raise the state constitutional question?

6 MR. CORREIA: I believe that it was cited
7 in our briefs, not only the U.S. Constitution, but
8 New York's - - -

9 JUDGE READ: What about below, though? I
10 don't - - - I don't mean in - - - I don't mean in the
11 Court of Appeals. Where did you raise it at the
12 below-us level court?

13 MR. CORREIA: You know, off the top of my
14 head, I'm not sure if it was raised in the local
15 court. I believe it was cited in the - - - our - - -
16 our brief in response to the appeal in county court.
17 I'm certain that we cited the New York State
18 constitutional statute of - - -

19 JUDGE RIVERA: I believe Judge Nesbitt did
20 refer to it - - -

21 MR. CORREIA: And I think he - - -

22 JUDGE RIVERA: - - - in the decision.

23 MR. CORREIA: It didn't seem to me that he
24 clearly based the decision on that issue - - -

25 JUDGE RIVERA: I understand. But he raised

1 it with - - -

2 MR. CORREIA: But he did raise it. He did
3 raise it.

4 JUDGE PIGOTT: And what issue is that? I'm
5 sorry.

6 MR. CORREIA: I'm sorry?

7 JUDGE PIGOTT: What issue, the state
8 constitution?

9 CHIEF JUDGE LIPPMAN: Yeah.

10 MR. CORREIA: Right. The - - - right, the
11 state constitutional issue. And I'm suggesting that
12 the court doesn't need to adopt Heien on these facts
13 and that you have the current case law in front of
14 you to make a finding of a mistake of law.

15 And I would be concerned about how many
16 cases would come in front of you, where you would
17 have to determine the range of reasonability that
18 would be very difficult to - - -

19 JUDGE RIVERA: So they'll end up time - - -
20 as a pragmatic matter? Is that what you're
21 suggesting, or is there a - - -

22 MR. CORREIA: Well, that's part of it.

23 JUDGE RIVERA: - - - legal argument?

24 MR. CORREIA: It's - - - it's - - -

25 JUDGE RIVERA: As to our state

1 constitution?

2 MR. CORREIA: Right. I believe that you
3 should continue the trend in certain cases that the
4 New York State constitution is more protective than
5 the federal Constitution, specifically on these
6 facts. I think it opens a - - - an unnecessary can
7 of worms to probe the reasonability of these kinds of
8 stops that are in front of you.

9 And it's - - - it's unnecessary on these
10 narrow facts that you have before you.

11 CHIEF JUDGE LIPPMAN: Okay, thanks,
12 counsel.

13 MR. CORREIA: Thank you.

14 CHIEF JUDGE LIPPMAN: Counselor, rebuttal?

15 MR. ROSENKRANS: Thank you.

16 JUDGE PIGOTT: Your opponent is drawing a
17 very sharp line. And Judge Nesbitt did too. He said
18 there's no question the police officer was acting in
19 good faith. No one suggests the police officer
20 needed to independently verify the legality of the
21 traffic sign. He's just saying, bad sign, bad stop.

22 MR. ROSENKRANS: I would agree - - - okay.
23 In Robinson, it stated that our constitution is - - -
24 our Section 12 is very similar to the federal
25 Constitution. Robinson also said, "Rather than

1 restrain the police in these instances, the police
2 should be permitted to do what they are sworn to do,
3 uphold the law."

4 They need - - - these cases are decided on
5 a factual basis, quite frequently. They don't
6 usually get to this level, because this is not a
7 fact-based court. But the Appellate Divisions and
8 the local courts have to deal with this, and the
9 officer on the street has to deal with it - - - with
10 this decision every single day.

11 It's what is a reasonable person standard,
12 was the officer - - - did the officer reasonably
13 believe that Ms. Guthrie ran that stop sign?

14 JUDGE PIGOTT: If we put her aside for a
15 minute. Mr. Correia is - - - wants to be narrow.
16 But if this - - - if there had been an automobile
17 accident, in other words, if she'd run the stop sign
18 and hit someone or another vehicle, I would think
19 whoever put that sign up might be in trouble one way
20 or the other, because - - - I mean, it's not a
21 legitimate sign. I assume - - - maybe the
22 supermarket put it up.

23 But somebody put a sign up there that
24 should not have been there. Isn't that a fair
25 statement?

1 MR. ROSENKRANS: I don't know. It may have
2 been required as part of the zoning when the plaza
3 went up. They may have required that it be done, and
4 it was an oversight that it wasn't registered.

5 JUDGE PIGOTT: Just - - - okay.

6 JUDGE RIVERA: So it may have been lawful
7 at one point?

8 MR. ROSENKRANS: It may have been lawful at
9 one point.

10 CHIEF JUDGE LIPPMAN: Yeah, but - - -

11 MR. ROSENKRANS: It may have been required
12 when the plaza was built.

13 CHIEF JUDGE LIPPMAN: But aren't we really
14 opening up - - - I think in your adversary's words -
15 - - just a can of worms that go on and on and on, as
16 to what's reasonable in every conceivable situation?
17 Wouldn't it be better to just say, you know, if it's
18 - - - if it's not a real sign, it's not a real sign?
19 Why isn't that just an easier way - - - a more
20 appropriate way to deal with it?

21 MR. ROSENKRANS: Even so, that should not
22 take away from - - - just because you can't convict
23 on the stop sign, it should not take away from what
24 was discovered as a basis of the stop. With the - -
25 - upon what the officer reasonably believed at the

1 time.

2 CHIEF JUDGE LIPPMAN: So you're getting
3 back to - - - I think Judge Pigott had raised it
4 earlier. It's that people shouldn't be allowed to -
5 - - if they violate the law, even though you're
6 starting with a sign that's problematic, you don't
7 want the consequence of saying in all circumstances
8 if it's not a sign, it's not a sign.

9 MR. ROSENKRANS: Correct, it's - - -

10 CHIEF JUDGE LIPPMAN: Okay.

11 MR. ROSENKRANS: - - - it's too extreme and
12 too binding on the - - -

13 JUDGE RIVERA: Do we - - - do we have
14 existing law - - - let's say we disagreed with you on
15 the stop, which I think what is really what you're
16 trying to deal with now - - - disagreeing with you on
17 the stop. Is there exist - - - existing law you can
18 point to that says nevertheless, you shouldn't
19 exclude, you shouldn't suppress the evidence?

20 MR. ROSENKRANS: I can't think of any right
21 now - - -

22 JUDGE RIVERA: Okay.

23 MR. ROSENKRANS: - - - Your Honor, thank
24 you.

25 JUDGE RIVERA: Fair enough.

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CHIEF JUDGE LIPPMAN: Okay, thank you both.
Appreciate it.

(Court is adjourned)

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

I, Penina Wolicki, certify that the foregoing transcript of proceedings in the Court of Appeals of People v. Rebecca Guthrie, No. 50 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Penina Wolicki

Signature: _____

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