

STATE OF NEW YORK: COUNTY OF WESTCHESTER  
JUSTICE COURT: TOWN OF YORKTOWN

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THE PEOPLE OF THE STATE OF NEW YORK,

DECISION & ORDER

-against-

Ticket No.: LQ 777100 2

RICHARD PICCOLI,

Defendant.

*offer*  
*60/55*

-----X  
GERSTENZANG, J.

The following constitutes the Decision and Order of the Yorktown Justice Court in connection with the defendant's motion for violation of the defendant's speedy trial rights pursuant to CPL §30.20 and the 6<sup>th</sup> and 14<sup>th</sup> Amendments to the U.S. Constitution.

The defendant's motion was served on December 19, 2005, filed on December 21, 2005 and made returnable on January 4, 2006 at 9:30 AM. No opposing papers have been filed.

The simplified traffic information herein was issued to the defendant on October 21, 2003, charging him with a violation of 1180 F and made returnable on November 25, 2003. The defendant entered a plea of not guilty by indorsing the reverse side of the simplified, in the space provided for that purpose, and mailing same to the Court. The so-indorsed copy of the simplified traffic information was received by the Court on October 28, 2003, well-before the return date indicated on the face of the simplified

traffic information. The "arraignment" date for the defendant therefore was October 28, 2003 (V&T Law §1806).

On December 6, 2005, the Court mailed notice to the defendant and the complainant State Police Officer, scheduling the defendant's trial for January 4, 2006. The time between arraignment and the scheduled trial was therefore in excess of two years.

The Courts have held that an unexplained delay of over two years in bringing a simplified traffic information to trial warrants dismissal (*People v. Thorpe*, 221 A.D.2d 491, 634 N.Y.S.2d 131).

The delay in this case resulted from scheduling by the Court, and through no fault of the prosecution. Nevertheless, the holding of *People v. Thorpe* is implicated.

Accordingly, the motion is granted and the simplified information is **DISMISSED**.

Dated: Yorktown Heights, New York  
January 4, 2006

Enter:



William C. Gerstenzang  
Yorktown Town Justice

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