

People v Hirsch (Yosef)
2010 NY Slip Op 52215(U)
Decided on December 15, 2010
Appellate Term, Second Department
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Decided on December 15, 2010

SUPREME COURT OF THE STATE OF NEW YORK

APPELLATE TERM: 9th and 10th JUDICIAL DISTRICTS

PRESENT: : NICOLAI, P.J., MOLIA and LaCAVA, JJ
2009-1286 OR CR.

The People of the State of New York, Respondent,

against

Yosef D. Hirsch, Appellant.

Appeal from a judgment of the Justice Court of the Town of Monroe, Orange County (Jack J. Rosenthal, J.), rendered May 14, 2009. The judgment convicted defendant, after a nonjury trial, of driving across hazard markings.

ORDERED that the judgment of conviction is reversed, as a matter of discretion in the interest of justice, the simplified traffic information is dismissed, and the fine, if paid, is remitted.

Defendant was charged with driving across hazard markings (Vehicle and Traffic Law § 1128 [d]), in that he crossed double yellow lines dividing the road. The trooper's testimony, indicating that he had observed defendant drive across double yellow lines, failed to establish a violation of Vehicle and Traffic Law § 1128 (d) (*see People v Sykes, 27 Misc 3d 133*[A], 2010 NY Slip Op 50703[U] [App Term, 9th & 10th Jud Dists 2010]; *cf.* Vehicle and Traffic Law § 1126 [a]). "[I]t is not inherently unlawful to cross such lines, and thus, such lines do not represent markings which indicate portions of a roadway where crossing such markings would be especially hazardous' in violation of Vehicle and Traffic law § 1128 (d)" (*People v Sykes, 27 Misc 3d 133*[A], 2010 NY Slip Op 50703[U]). Accordingly, the judgment of conviction is reversed and the accusatory instrument is dismissed.

In light of the foregoing, we need not address defendant's remaining contentions.

Nicolai, P.J., Molia and LaCava, JJ., concur.

Decision Date: December 15, 2010

[Return to Decision List](#)