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At a term of the Appellate Term of the Supreme Court
of the State of New York for the 9th & 10th Judicial Districts

NOV 20 2008

HON. KENNETH W. RUDOLPH, P.J.
HON. EDWARD G. McCABE
HON. ALAN D. SCHEINKMAN, JJ.

OCTOBER 29, 2008 TERM
2007-1399 OR CR

-----X
PEOPLE OF THE STATE OF NEW YORK,
Respondent,

-against-

MORDECHAI NEUHAUS,
Appellant.
-----X

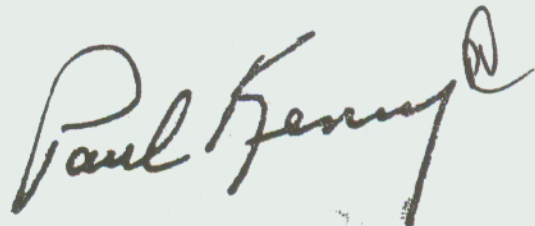
The above named appellant having appealed to this court from **JUDGMENTS OF CONVICTION** of the **JUSTICE COURT, TOWN OF WALLKILL, ORANGE COUNTY** rendered on **MAY 22, 2007** and the said appeal having been **argued** by **MATISYAHU WOLFBERG, ESQ.**, counsel for the appellant and no brief having been submitted for the respondent and due deliberation having been had thereon; it is hereby,

ORDERED AND ADJUDGED that the judgments of conviction are reversed on the law, the simplified traffic informations are dismissed, and fines, if paid, remitted.

Rudolph, P.J., McCabe and Scheinkman, JJ., concur.

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ENTER:



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SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE TERM : 9th and 10th JUDICIAL DISTRICTS

-----X
PRESENT : RUDOLPH, P.J., McCABE and SCHEINKMAN, JJ.
-----X

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-against-

NO. 2007-1399 OR CR

DECIDED **NOV 20 2008**

MORDECHAI NEUHAUS,

Appellant.
-----X

Appeal from five judgments of the Justice Court of the Town of Wallkill, Orange County (Ray Shoemaker, J.), rendered May 22, 2007. The judgments convicted defendant, after a nonjury trial, of five charges of permitting a passenger in his motor vehicle to be without seatbelts or car seats.

Judgments of conviction reversed on the law, simplified traffic informations dismissed, and fines, if paid, remitted.

Defendant was stopped by a state trooper while driving on Route 17 in the Town of Wallkill in a van with headlights flashing alternately. The trooper subsequently issued five tickets to defendant charging that five of his children in the rear of the van were not in seatbelts or car seats (Vehicle and Traffic Law § 1229-c).

RE: PEOPLE v MORDECHAI NEUHAUS
NO. 2007-1399 OR CR

Stenographic minutes were not taken of the trial.

Viewing the evidence as presented in the justice's return in the light most favorable to the People (see People v Contes, 60 NY2d 620, 621 [1983]), we determine that the proof of guilt was legally insufficient, since no rational trier of fact could have deemed all of the elements of the offense established beyond a reasonable doubt (see Vehicle and Traffic Law § 1229-c; People v Danielson, 9 NY3d 342, 349 [2007]). The summary of the trooper's testimony in the return does not show how the trooper concluded that the children were outside of their seat belts or safety seats while defendant was operating the van. There is no indication that the trooper actually saw any of the children while the van was being operated or that anyone admitted that they were then unrestrained. Nor does it appear that defendant's testimony satisfied the deficiencies in the People's proof. Accordingly, the convictions are reversed and the five simplified traffic informations are dismissed.

In light of the foregoing, the other issues raised herein are rendered academic.

Rudolph, P.J., McCabe and Scheinkman, JJ., concur.