

New York v. Derczo

City Court of New York, Utica, Oneida County

March 23, 2026, Decided

DOCKET NO. CR-6114-25

Reporter

2026 N.Y. Misc. LEXIS 1748 *; 2026 LX 144168

PEOPLE OF THE STATE OF NEW YORK, v.
MICHAEL P. DERCZO, Defendant.

Notice: THIS OPINION IS UNCORRECTED
AND WILL NOT BE PUBLISHED IN THE
PRINTED OFFICIAL REPORTS.

Core Terms

deposition, defense counsel, timely request,
ticket, defense motion, thirty days, simplify,
arraign, traffic

Counsel: [*1] Todd C. Carville, Esq., Oneida
County District Attorney, Utica (Elizabeth E.
Boswell, Esq., of counsel), for the People.

Benjamin Goldman, Esq., Valley Stream, for
the Defendant.

Judges: PRESENT: HON. JOSEPH A. SABA,
UTICA CITY COURT JUDGE.

Opinion by: Joseph A. Saba

Opinion

MEMORANDUM DECISION

The defendant has moved this court by a motion which was filed with the court on December 28, 2025, for an order seeking dismissal of the accusatory instrument herein charging the defendant with Speeding in violation of § 1180(d) of the Vehicle and Traffic

Law of the State of New York on November 12, 2025.

The defendant's motion seeks the following relief:

- 1. Dismissal for failure to serve a supporting deposition;*
- 2. Dismissal for failure to provide an affidavit of service;*
- 3. Dismissal for violation of speedy trial rights; and*
- 4. Request for discovery.*

The people filed a responding affirmation opposing the relief requested on February 2, 2026.

After due deliberation the court determines the defendant's motion as follows:

The defendant herein contends he was not served with a supporting deposition despite requesting the same. The people maintain service of a supporting deposition per the defendant's request is unnecessary given the defendant was provided a copy of the supporting deposition at the [*2] traffic stop. § 100.25 of the Criminal Procedure Law states that a defendant arraigned upon a simplified traffic information is, upon timely request, **entitled as a matter of right** to have filed with the Court and served upon him a supporting deposition of the complainant police officer, or public servant, containing allegations of fact,

based either upon personal knowledge or upon information and belief, providing reasonable cause to believe that the defendant committed the offense or offenses charged.

Despite the people's contention, this court interprets the statutory language to mean a defendant who requests a supporting deposition pursuant to CPL § 100.25 is entitled to one, **regardless** of whether a supporting deposition was included with the defendant's ticket. This court is not bound by the caselaw presented by the people, nor is it persuaded by it.

CPL §100.25(2) states that, "to be timely, such a request must be made no later than thirty days after the date the defendant is directed to appear in court as such date appears upon the simplified information and upon the appearance ticket."

Here, the ticket directed the defendant to appear in Utica City Court for arraignment on December 9, 2025. The defendant failed to appear, and the Court issued [*3] a suspension under NYS Scofflaw. On December 28, 2025, the court received the instant motion from the defense, which included as an exhibit a letter dated November 19, 2025 (Exhibit "A"), from defendant's counsel noting his appearance, entering a "not guilty" plea on his client's behalf, and requesting a supporting deposition. Upon receipt of the defendant's moving papers, the court emailed the parties, requesting proof from defendant's counsel that the letter dated November 19, 2025, was sent to the court, as a copy is not contained in the court's records. Defense counsel was unable to produce proof that the letter was submitted to the court.

Nevertheless, the court concludes that, even if this court did not receive Exhibit A until December 28, 2025, it still acted as a timely request for a supporting deposition. The

request was made less than thirty days after the date the defendant was directed to appear in court.

As the defendant did not receive a supporting deposition despite his timely request, his motion to dismiss is hereby **GRANTED**.

This will constitute the Decision and the Order of the Court.

ENTER:

/s/ Joseph A. Saba

Hon. Joseph A. Saba

Utica City Court Judge

DATE: March 23, 2026

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