

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK - CIVIL TERM: PART 41

-----X

ANDREA ADLEMAN, :

Petitioner, :

-v- Index No.:
161816/2023

NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES, NEW YORK POLICE DEPARTMENT, :

Respondents. :

-----X

80 Centre Street
New York, New York 10013

November 21, 2024

B E F O R E :

HONORABLE NICHOLAS W. MOYNE,
SUPREME COURT JUSTICE

A P P E A R A N C E S :

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James Wilburn
Senior Court Reporter

Proceedings

1 THE COURT: Andrea Adleman against Department of
2 Motor Vehicles and Police Department, index number
3 161816/2023. Your appearances?

4 MR. GREENE: Christopher Greene on behalf of
5 petitioner, Andrea Adleman.

6 MR. CULLEN: Jay Cullen on behalf of the City
7 respondents.

8 MS. RHODES JANOFSKY: Kate Rhodes Janofsky,
9 Office of the New York State Attorney General, on behalf of
10 respondent Department of Motor Vehicles.

11 THE COURT: Let me start with the basic question
12 which, you know, I will tell you straight out I was not
13 aware that this is actually the case, but let's me just see
14 if everybody agrees on this.

15 Is it the case, do we all agree, that under City
16 law if you are on a bike and you're at the intersection and
17 there's a walk signal for the pedestrian and the vehicle
18 signal is red, right, that's what we're talking about, do
19 we all agree that under the law you can proceed into the
20 intersection and go even though the vehicle signal is red?

21 Do we agree that's the law?

22 MR. GREENE: Petitioner agrees.

23 THE COURT: I know that, but I'm asking -- fair
24 enough. Easy question for the petitioner.

25 What about the respondents?

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1 MR. CULLEN: Yes.

2 THE COURT: Is that, in fact, the law?

3 MR. CULLEN: Yes, except where there's otherwise
4 indicated traffic control devices which is not at issue in
5 this case, but just clarifying the statute has a --

6 THE COURT: Okay. Well, because the only --
7 right. In other words, for purposes of the bike, what you
8 have -- I mean, I don't know if you want to call it
9 contradictory signals, but if the signal is walk and the
10 vehicle is red, the walk sign governs for the bike. Okay.

11 Why did she get a ticket then if that's the case
12 or multiple tickets or whatever she got?

13 MR. CULLEN: It was just a single ticket,
14 Your Honor.

15 THE COURT: Okay. Do you agree that single
16 ticket should not have been given?

17 MR. CULLEN: Well, Your Honor, that is moot
18 because D.M.V. has waived the ticket and refunded it.

19 THE COURT: I understand. Okay. Fine. You
20 agree that was the law and you agree that ticket was
21 improperly given and it's been refunded, right?

22 MR. CULLEN: Yes.

23 THE COURT: Is that what you're saying?

24 MR. CULLEN: Yes.

25 THE COURT: What else are you looking for out of

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1 this?

2 MR. GREENE: What we're looking for is basically
3 that an argument that falls into the mootness exception.
4 Obviously, the ticket has been expunged.

5 THE COURT: Right.

6 MR. GREENE: But only I will add --

7 THE COURT: What am I supposed to determine?
8 They're conceding this is the law. They've refunded the
9 ticket. Do you want attorney's fees because you brought
10 this to their attention? My understanding is the ticket
11 was refunded before this proceeding started.

12 MR. GREENE: I believe the ticket was refunded
13 immediately after. That's part of their broad litigation
14 conduct to avoid judicial oversight.

15 THE COURT: Do you want attorney's fees for
16 getting the ticket refunded?

17 MR. GREENE: We'd love attorney's fees. Our main
18 focus is the fact that this falls squarely into the
19 exception of mootness that the Court of Appeals has
20 recognized. What we're asking for is some direction from
21 The Court to the DMV that this law was, in fact, passed and
22 this law, in fact, applies to cyclists in New York City
23 because we're aware of numerous cyclists --

24 THE COURT: They just said it does. They
25 acknowledge it does. What you want is to control

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1 individual police or traffic officers or what it is. You
2 basically want them to not give out any tickets in the
3 future, but I can't control that. Listen, police officers,
4 traffic officers, hopefully they follow the law, but
5 sometimes they don't.

6 MR. GREENE: Well, they don't in a comprehensive
7 manner.

8 THE COURT: When that happens, you try to seek
9 redress in these individual cases, but what you're
10 basically asking me to do is tell the cops don't break the
11 law. Don't give tickets or -- let me rephrase. Don't give
12 tickets to people who aren't breaking the law. That's what
13 you're basically asking me to do.

14 MR. GREENE: It's more specific than that. Our
15 experience with the DMV and the NYPD is there a
16 comprehensive failure by the DMV and the NYPD to change the
17 way they -- they are prosecuting people repeatedly for
18 lawful conduct. What they've ensured is that no one can
19 get real relief because here are the steps you have to
20 take:

21 You have to plead not guilty. You have to go to
22 your hearing at which you'll be told wrong statements of
23 the law which you'll see in the transcript here and this
24 happens repeatedly. You'll be informed that law doesn't
25 apply. And then, the conviction will be upheld. You then

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1 appeal, spending money on that.

2 THE COURT: Okay. But you're not litigating a
3 class action right now. You're litigating one case.

4 MR. GREENE: I am. However, it's not styled as a
5 class, but you do have power and authority pursuant to the
6 exception too the mootness rule to essentially order that
7 this law, 19-195.1, is applied to cyclists in New York
8 City. No one has said that and it's not clear whether or
9 not --

10 THE COURT: What do you mean nobody has said
11 that? Where would they be saying that?

12 MR. GREENE: There's simply no recognition by
13 either of the respondents until they've been sued that this
14 law applies. They do this in order to avoid oversight.
15 They require a person who's been unlawfully ticketed, which
16 is a seizure by the way, under Rodriguez. That has a
17 constitutional dimension that is happening over and over
18 again.

19 But putting that constitutional dimension aside,
20 what they're requiring of people who they are still going
21 out and unlawfully ticketing is to obviously exhaust the
22 administrative process at which at no point in those months
23 of appeals will the respondent DMV acknowledge they were
24 wrong. They will only do so when you sue them and spend
25 \$600 bringing this --

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1 THE COURT: Other than your case where maybe
2 that's what happened -- how do you say it, Adleman?

3 MR. GREENE: Yes.

4 THE COURT: She went in front an ALJ.

5 MR. GREENE: Correct.

6 THE COURT: The ALJ said you have to operate a
7 bike like a car. You can't go through a red light.

8 MR. GREENE: Correct.

9 THE COURT: And that's wrong.

10 MR. GREENE: Completely.

11 THE COURT: You concede that's wrong, right?

12 MS. RHODES JANOFISKY: Her conviction has been
13 expunged.

14 THE COURT: So why did the ALJ, you know, now I'm
15 sort of asking you to read the mind of the ALJ, but what
16 he's saying is why did the ALJ think that was the law? And
17 is there something the City could do or that the DMV could
18 do to tell ALJs look, this is the law. They do not have to
19 be treated like a car. Maybe give them some instruction or
20 guidance or something.

21 That seems to be more or less what he's looking
22 for. I mean, could that be done? Could basically these
23 ALJs be thought, hey no, it's not like a car.

24 MR. GREENE: We sought that --

25 THE COURT: Let them answer the question.

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1 MS. RHODES JANOFSKY: To DMV and the ALJs --

2 THE COURT: I don't know who would be responsible
3 for that. I don't know whose ALJs these are. Are they
4 DMV's?

5 MS. RHODES JANOFSKY: Yes, that's correct.

6 THE COURT: Could DMV tell your ALJs, listen, if
7 there's no other signal or something, they're allowed to
8 follow the pedestrian lights. They are not a car for these
9 purposes.

10 Could you basically tell these ALJs that?

11 MS. RHODES JANOFSKY: Well, the relief he's
12 seeking is a writ of mandamus that ALJs be told to, quote,
13 "apply the law."

14 THE COURT: I'm asking you a question. Forget
15 about what he's seeking. I'm asking: Could the Department
16 of Motor Vehicles instruct their ALJs, listen -- because
17 he's saying it's not clear that this doesn't apply to
18 cyclists.

19 So could the Department of Motor Vehicles issue
20 some kind of guidance or whatever you want to call it,
21 memo, basically making it clear that this is the law that
22 cyclists are treated differently than cars for purposes of
23 the signals and which signals govern.

24 The wording of it I leave up to you guys to
25 negotiate, but that could be done, right? It won't be so

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1 burdensome I would think, no?

2 MS. RHODES JANOFFSKY: Well, I'm just trying to
3 play it out, Your Honor, without insight to, like, ALJs'
4 CLEs, for example, as I sit here today. You're asking can
5 the agency educate the ALJs beyond what it -- I mean, the
6 ALJs are already educated as to what the law is.

7 THE COURT: Well, are they told that a person
8 operating a bicycle while crossing an intersection should
9 follow pedestrian control signals absent some other traffic
10 control device? Are they told that? I mean, that is the
11 law, right?

12 MS. RHODES JANOFFSKY: Right.

13 THE COURT: Are they told that in these CLEs or
14 whatever it is?

15 MS. RHODES JANOFFSKY: I can't speak to that,
16 Your Honor. I can make educated guesses, but I can't speak
17 to that specifically. If it's in the Administrative Code
18 that the ALJs are obligated to follow and apply and it's in
19 the Administrative Code that they're obligated to follow
20 and apply, I don't know why this would stand out as
21 compared to any other violation of the VTL or the New York
22 City Administrative Code that they wouldn't otherwise be
23 aware of. That's also not relief that's being sought. I
24 mean, the nature of the -- I mean --

25 THE COURT: What about his point that this is

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1 happening all the time and these people really don't have
2 any recourse other than to go into court and then the ALJs
3 rules against them and then they have to bring a lawsuit
4 and that costs money and not everybody has an attorney?
5 So, what about that?

6 MS. RHODES JANOFSKY: That's not pled,
7 Your Honor. What is pled -- hold on. My turn.

8 What is pled, Your Honor, in the petition is a
9 reference to two news articles that say these two other
10 bicyclists also got similar tickets. Petitioner in this
11 instance, and petitioner will correct me, was ticketed in
12 June of 2022, about two-and-a-half years ago.

13 The news articles that petitioners relies on, one
14 is from November of '21 in a different county, in
15 Queens County. And one is from September of 2022 in a
16 third county, in Kings County. So there's allegations of
17 three potential tickets in, I don't know, a two-year time
18 span.

19 Now, we're four years after the fact,
20 three-and-a-half years after the fact. There was no
21 allegation other bicyclists went to the DMV or challenge
22 their violation. The DMV -- what I'm hearing today from
23 Counsel is they go to the DMV and this is happening all the
24 time before these ALJs. That's not alleged.

25 There's one petitioner that went to the DMV, so

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1 speaking to the mootness exception factor of likelihood of
2 repetition, repetition of appearing all the time in front
3 of the DMV and these ALJs it's not alleged.

4 THE COURT: First of all, you have to slow down a
5 little bit so the Reporter gets everything.

6 MS. RHODES JANOFISKY: Sorry.

7 THE COURT: What you're basically saying is he's
8 come up with a few examples. I think you said they're from
9 newspaper articles and they're listed or pled in 44 of his
10 petition or her petition; press reports abound regarding
11 the custom and practice of NYPD and DMV, of refusing to
12 give effect to section 195.1. He cites to a Streetblog's
13 article and he cites to a couple of Streetblog's articles.
14 I confess I haven't read those articles.

15 Have you read them?

16 MS. RHODES JANOFISKY: I have.

17 THE COURT: How many cases -- excuse me. How
18 many cases or examples do they give in these articles?

19 MS. RHODES JANOFISKY: Just the two I identified
20 and not petitioner herself. I would also point out
21 petitioner's Counsel is quoted at length in one of those
22 articles.

23 THE COURT: So they haven't shown that this is a
24 systemic problem?

25 MS. RHODES JANOFISKY: It's not alleged,

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1 Your Honor, no.

2 THE COURT: Well, I don't know if I agree it's
3 not alleged, but they haven't shown it, right?

4 MS. RHODES JANOFFSKY: That would go to the factor
5 for a mootness exception on the likelihood of repetition.
6 That would be a likelihood of repetition to the general
7 public.

8 THE COURT: There's thousands and thousands of
9 and thousands of cyclists in the city. There's thousands
10 or more than thousands of cars. I think, if I can
11 paraphrase your argument, I think what you're basically
12 saying is in a city this big full of cyclists, there's
13 bound to be errors that are made. But there's no proof or
14 you're saying not even any allegations really that this is
15 some systematic thing.

16 People make mistakes here and there, but he
17 hasn't really alleged or come up with evidence showing any
18 type of pattern or any type of -- that's what you're
19 saying, right?

20 MS. RHODES JANOFFSKY: That's correct, Your Honor.

21 THE COURT: How do you respond to that? Hold on
22 one second.

23 MR. GREENE: Of course.

24 THE COURT: Go ahead.

25 MR. GREENE: A couple points, Your Honor. The

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1 first is that if you read the transcript and to the
2 referrals we have to the transcript, it's clear not simply
3 there was a mistake that The Judge here in the Adleman case
4 or the others that have been reported made a mistake on a
5 bad day. They made affirmative statements of the law that
6 are false, that reflect an institutional failure. I will
7 say separately and part of the issue here --

8 THE COURT: All Judges should get the law right
9 at all times.

10 MR. GREENE: That would be wonderful.

11 THE COURT: It would be. Okay. But if they
12 don't, you're not going to sue every Judge collectively,
13 right? So why should you be doing that here?

14 MR. GREENE: Only in the following circumstance:
15 In the circumstance in which we have had multiple
16 individuals, including individuals who had have called my
17 office, including a family member who's sitting in the
18 courtroom today of another affected person who we can't
19 take on as pro bono matter because it costs too much and it
20 takes too much time.

21 THE COURT: Where is this alleged in your
22 petition?

23 MR. GREENE: The folks that have called me since
24 the petition are not alleged in the petition.

25 THE COURT: But even about taking it on, where is

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1 this alleged in your petition?

2 MR. GREENE: I'm sorry. What are you asking?

3 THE COURT: Where is this alleged in your
4 petition? Your petition, as far as I can see,
5 Paragraph 44, is the paragraph that talks about the custom
6 and practice and you cite to these newspaper articles.
7 Again, I haven't read them, but according to the
8 respondents they mention a few people.

9 Let's assume for the sake of argument that
10 everybody mentioned in that newspaper article was, quote,
11 unquote, a victim of this. But that's a few people.
12 That's not enough to show repetition.

13 Now, if you have other cases that have come to
14 light or if you want to make this a class action, which you
15 would have to satisfy among other things the numerosity
16 requirement, maybe you could bring a new proceeding along
17 those lines. But I don't think this petition really
18 addresses it, does it?

19 MR. GREENE: So, I respectfully disagree. I do
20 believe the allegation with respect to Ms. Adleman and the
21 other individuals cited in the articles, in addition to the
22 people referenced generally in our reply which did refer to
23 the fact we did receive inbound phonecalls of individuals.

24 THE COURT: That's in a reply. It really can't
25 be in that.

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1 MR. GREENE: Separately, the consequence of
2 failing to act here and having the DMV not take any steps
3 whatsoever, which seems to be their position here, is that
4 we will simply be back here. I'll go back to my office,
5 call up the three -- it will ensure a strain on judicial
6 resources when we could avert that now by having the DMV
7 give any instruction whatsoever to its ALJs concerning what
8 the law is.

9 We attempted to accomplish that months and months
10 ago. Before the lawsuit was settled, we had conversations
11 with DMV about what that would like look and what kind of
12 guidance would be offered and suddenly they went quiet
13 apparently because they didn't want to tell anyone --

14 THE COURT: What you basically say is that they
15 make it so it's not worth fighting it because the ticket is
16 \$190 and it costs more to fight it.

17 MR. GREENE: Significantly more.

18 THE COURT: I don't want to get myself in trouble
19 here, but that's true of a lot of parking tickets, right?
20 The system is -- I want to be careful. One could argue
21 that the system is set up in general that it's not worth
22 fighting these things, but people do fight it. I get
23 Article 78s all the time about parking tickets.

24 When I first started working as a court attorney
25 in supreme before I was a Judge, I remember people started

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1 bringing them in. I was like, wait, you can challenge
2 parking tickets in supreme court? I had idea. Now it
3 turns out it happens all the time. I get hundreds and
4 hundreds of them. Maybe you specialize in that kind of
5 thing. Sounds like maybe you do.

6 What you're asking for kind of goes well beyond
7 that. I mean, I hear what you're saying. I hear what
8 you're saying, but again, that could be said of all kinds
9 of things. I remember disputes about private buildings
10 were putting up cones in front of their building and people
11 were getting tickets for parking in front of an area where
12 they absolutely had a legal right to park and there was a
13 case about that. But that was happening numerous times or
14 at least it was found that.

15 I hear what you're saying, but I don't -- and
16 frankly, I think probably a lot of people don't realize
17 that is the law. I didn't know that was the law. I
18 assumed you're riding a bike. You should be treated like a
19 car. Honestly, I'm not sure why you shouldn't be, but the
20 Legislature decided otherwise. Fair enough. I don't know
21 if this is really the right vehicle to get into all of
22 that.

23 Look, I think it would be something. I don't
24 know why the City -- I'm saying the City, but DMV which is
25 actually State, I guess, I don't know why they wouldn't

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1 consider, if they haven't already, issue some kind of
2 guidance. You know, look, we've been getting complaints.
3 You could say we've been getting complaints from cyclists
4 that they're being improperly ticketed. Be aware that this
5 is what the law is.

6 Now, they still -- nobody can control the
7 individual traffic cop on the beat as they were. They're
8 going to give tickets and they're going to do what they do
9 and they are trained on the law or at least they should be.
10 But again, just because you're trained on the law doesn't
11 mean you follow it. That's just the reality of it.

12 And there's really no way, short of having a
13 Judge at every street corner watching the people, there's
14 really no way to guarantee full compliance with this. I
15 would be willing to entertain some type of proposal. It
16 seems they're not willing to entertain it, at least not
17 now.

18 I think part of the reason is they don't think
19 they have to in this vehicle. Maybe if you brought a class
20 action or maybe if you brought another petition that
21 alleged this in a more systematic way other than just these
22 newspaper articles, maybe they would respond differently or
23 respond in the way you want.

24 Now, in terms of Ms. Adleman's case, and I don't
25 know if -- I would agree you're the prevailing party on her

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1 case. Does that entitle you to attorney's fees?

2 MR. GREENE: We believe so, yes.

3 THE COURT: Under what statute?

4 MR. GREENE: I have to pull up my petition.

5 THE COURT: How much attorney's fees are you
6 looking for?

7 MR. GREENE: We would ask for a hearing for that.
8 We have not collected the --

9 THE COURT: Why don't you give me a number.
10 Maybe I'll just give it to you.

11 How many hours -- I'll tell you what. You want
12 to submit an affidavit on that?

13 MR. GREENE: Yes, I do, Your Honor.

14 THE COURT: Okay. You agree -- you were going to
15 tell me the statute. Is this an Article 78?

16 MR. GREENE: Correct, Your Honor.

17 MS. RHODES JANOFSKY: Correct, Your Honor.

18 THE COURT: You're entitled to attorney's fees on
19 an Article 78.

20 MR. GREENE: Yes.

21 THE COURT: At least in terms of Ms. Adleman, he
22 won, right? There should be some consequences to that.

23 MR. CULLEN: Your Honor, this hasn't been
24 briefed.

25 THE COURT: He's going to submit an affidavit.

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1 Unless you guys want to negotiate something right now.
2 That's up to you. I was going to ask him what he had in
3 mind. Maybe you'd be willing to do it.

4 MR. CULLEN: I haven't received authority on
5 attorney's fees. I'm not in a position to negotiate.

6 THE COURT: What about my idea? Even if we don't
7 do it now. He says he's coming back. Listen, Streetblogs,
8 and I'm not disparaging them in any way. They're very
9 active and this is the kind of thing -- people in the
10 community are talking about this. I don't know how many
11 people, but there are people.

12 And this may be above your pay grade. I
13 understand. It's certainly above mine. Maybe you want to
14 take it back and maybe work out something. Maybe
15 petitioner has an idea about what would satisfy them in
16 terms of further instruction.

17 I think it has to be with the ALJs. I don't see
18 the point of telling individual traffic officers you have
19 to follow the law because they do get trained. Hopefully,
20 this is part of the training.

21 MR. CULLEN: It is, Your Honor.

22 THE COURT: I don't think that -- well, I don't
23 know if you're saying that police officers single out
24 cyclists.

25 MR. CULLEN: No, Your Honor.

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1 THE COURT: Some people do believe that.

2 MR. GREENE: It's not part of our --

3 THE COURT: I can't even go there either. I
4 think your petition is moot, but that won't, as you say,
5 that won't necessarily prevent you from bringing a new
6 proceeding. But in the meantime, put in the affidavit for
7 attorney's fees.

8 If you also want to negotiate something with
9 them, basically -- are there ALJ CLEs? You mentioned that.
10 Do they actually exist or you're not sure?

11 MS. RHODES JANOFISKY: Your Honor, I just --

12 THE COURT: I have to move on. Let's wrap it up
13 quickly.

14 MS. RHODES JANOFISKY: Could respondent -- if he's
15 going to put in an affidavit, I want to make double sure he
16 doesn't have to go to the First Department for attorney's
17 fees. I want to make doubly sure.

18 THE COURT: Why would he have to go to the
19 First Department?

20 MS. RHODES JANOFISKY: Because the burden for
21 attorney's fees under an Article 78 is slightly different.

22 THE COURT: This isn't a transfer. If it was
23 transferred over there, then he would have to ask them.
24 This is not a transfer.

25 MS. RHODES JANOFISKY: Right, but --

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1 THE COURT: By the way, if the hearing hadn't
2 been reversed, it might have gone to the Appellate
3 Division.

4 MS. RHODES JANOFFSKY: Yes.

5 THE COURT: That's true. That is true, but I
6 don't think that means he has to go to the Appellate
7 Division for attorney's fees.

8 MR. CULLEN: We can certainly have a hearing on
9 attorney's fees.

10 MS. RHODES JANOFFSKY: If he's going to put in an
11 affidavit --

12 THE COURT: I was asking you though about the
13 CLEs.

14 Are there actually CLEs the ALJs get?

15 MS. RHODES JANOFFSKY: As I sit here today,
16 Your Honor, I don't have any independent knowledge.

17 THE COURT: If you want to prevent a further
18 lawsuit, maybe what you want to do is talk with somebody.
19 There must be somebody in charge of whatever at DMV. This
20 is all quite new to me still. Like I said, I didn't even
21 know.

22 Anyway, most people have no idea how these things
23 are adjudicated. They really have no idea. Maybe you want
24 to check with whoever is involved with that and say,
25 listen, there's been chatter in the community, chatter on

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1 blogs. People think this is not correct and it's not
2 correct. You have a judge in Supreme who said, listen,
3 can't somebody give better instructions on this? Okay?

4 And if you agree to that and maybe he gets a few
5 extra dollars on his attorney's fees for encouraging that,
6 but that might be good for everybody. It might be good for
7 the City. It might be good for DMV. You don't want to
8 waste time and resources on things that aren't going
9 anywhere. At least you shouldn't.

10 Anyway, there's a limit to what I can do. Really
11 much of what you're saying is really not alleged in here
12 and what you have alleged with respect to your client is
13 moot. Anyway, you can put in the affidavit.

14 MR. GREENE: We'll do that.

15 THE COURT: Otherwise I am denying the petition
16 as moot. If you want to appeal, you can order the
17 transcript. It sounds like you're probably going to think
18 about bringing something else unless something can be
19 worked out. Maybe you could even submit a draft
20 instruction that you think would be appropriate, but you
21 can work that out with them.

22 MS. RHODES JANOFISKY: So the matter is being
23 dismissed as moot, but a draft instruction will be
24 included?

25 THE COURT: No, that's up to him. If he wants to

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1 try to negotiate with you or with DMV privately or if you
2 want to negotiate with him, that's fine. If I were you,
3 and I'm just telling you, I'm not ordering you to do it,
4 but if I were you I would go to somebody with DMV and say,
5 look, I just had this case in court. It got dismissed, but
6 it may come up again.

7 Is there anything we could do to preempt this and
8 make it clear to the ALJs and maybe the traffic cops too,
9 but certainly ALJs that, in fact, this is the law; that
10 cyclists should be treated differently than cars?

11 That's a suggestion. I'm making a suggestion.
12 You don't have to follow it, but I think it's a pretty good
13 suggestion because I have a feeling that it's one thing if
14 it was just him, but if it's on these blogs, if it's in the
15 community, it might not be him. It might be somebody else
16 who hears about this and says, yeah, that happened to me
17 too. I'm going to start a case. That's all I'm saying.

18 MS. RHODES JANOFSKY: Understood, Your Honor.

19 THE COURT: I say that as somebody who had no
20 idea either that this was, in fact, the law. I was
21 convinced you were going to come in and say, you know,
22 there was some misreading of it or something, but that's
23 not the case.

24 MR. GREENE: Just to conclude --

25 THE COURT: I do have to move on. I've got a lot

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1 of people waiting. I ran late. Real quick.

2 MR. GREENE: We agree that addressing the ALJs
3 specifically is sufficient and the NYPD doesn't need to be
4 directly involved.

5 THE COURT: That would be far too complicated and
6 it wouldn't go anywhere.

7 MR. GREENE: Agreed.

8 THE COURT: Thank you. If you want to appeal,
9 get the information from the Court Reporter. Otherwise,
10 I'll give you 30 days to submit the affidavit. Then, you
11 can respond within 30 days I guess or let us know if you
12 agree or otherwise. Either I'll have a hearing or I'll
13 just decide it on the papers.

14 MR. CULLEN: Thank you, Your Honor.

15 THE COURT: You can submit a proposed order along
16 with that.

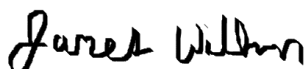
17 MR. GREENE: Will do.

18 * * * *

19 I, James Wilburn, hereby certify that the above is a
20 true and accurate copy of my stenographic notes.

21

22



23

James Wilburn
Senior Court Reporter

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25