

STATE OF NEW YORK: COUNTY OF SENECA
SENECA COUNTY COURT

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THE PEOPLE OF THE STATE OF NEW YORK

- against-

CAROL [REDACTED]

DECISION and ORDER

Index No: 54770

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This matter comes before the Seneca County Court, sitting as an Intermediate Appellate Court, by motion of the attorney for Defendant/ Appellant, for summary reversal of a conviction in Ovid Town Court. The motion is made pursuant to *People v. Feldes*, 73 N.Y.2d 661 (1989).

This Appeal was initiated by the Service and Filing of a Notice of Appeal on July 8, 2024. Pursuant to CPL §460.10 (3), the Ovid Town Court was required to provide the digital recording to the Appellant for the purposes of creating a transcript but failed to do so. On August 12, 2025, Defendant/ Appellant notified Ovid Town Court of this failure. According to Defendant/ Appellant, no digital recording was received. Defendant/ Appellant filed their Affidavit of Errors without the transcription on September 26, 2024. Pursuant to CPL § 460.10(3)(d) the Court was required to serve and file a Court's Return within 10 days. A Court Return was not received by October 6, 2024.

Defendant was required to file a motion to compel the production of the digital recording and court return. The same was filed on December 26, 2024. It was not opposed by the People or the Ovid Town court. The County Court ruled, in a decision dated March 20, 2025, that a court return was to be provided within twenty days. Defendant/ Appellant now maintain that

they did not receive a court return. This court is not aware of the filing of a court return or any other communication from the court or the People about any plans for filing a court return.

It is upon this history that this Court considers Appellant's motion for summary reversal. The Court recognizes that Appellant filed their Notice of Appeal over a year ago. A digital transcription was supposed to be provided within 10 days. Ovid Town Court failed to do so. Due to the failure of the Ovid Town Court to comply with CPL §460.10 (3) and the County Court's Decision, Appellant has been unable to perfect their appeal. Likewise, this Court cannot consider the appeal without a record on appeal.

Appellant asks this court for a remedy. In *People v. Feldes*, an Appellant similarly filed motions to compel compliance pursuant to CPL §460.10 (3). After the town court failed to comply, the County Court summarily reversed the conviction, and dismissed the charges. *Feldes* at 662. After the respective County Court granted the appeal the People filed an appeal to the New York Court of Appeals, arguing that the County Court did not have authority to do so without explicit statutory authority. *Id* at 663. The Court of Appeals found there, as here, that the People had failed to take any action in settling the record on appeal, whereby the People could not complain that conviction was being overturned. *Id* at 664.

Defendant/ Appellant filed a *Feldes* motion for summary reversal. The Matter was scheduled for the Court's May 20, 2025, Term Calendar for consideration and review. The People have not submitted any Opposition. For the reasons, cited above, the Court finds that the Appellant's appeal is summarily granted. Accordingly, it is hereby,

ORDERED, that the arguments in Appellant's Affidavit of Errors be deemed admitted;

ORDERED, that the Ovid Town Court be directed to vacate the Judgment of Conviction for VTL 1180 (B) 75/55, Fine of \$243, entered on or about June 11, 2024, and set such aside in all respects, and it is further;

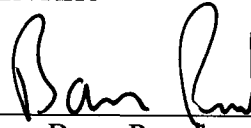
ORDERED, that the Ovid Town Court file the vacate Order with a UT-20 form with the Department of Motor Vehicles within 10 days of service of this order and provide a copy to defense counsel and the People

ORDERED, that Ovid Town Court direct the New York State Department of Motor Vehicles to expunge from its records the aforesaid Conviction for VTL 1180 (B) which was entered on or about June 11, 2024, and it is further;

ORDERED, that any payment previously provided by Appellant towards the above fine, separate from any suspension fees that might be owed, be returned to Appellant and that the Ovid Town Court file a refund notice with the New York State Comptroller's Office within 10 days of service of this order and provide a copy to defense counsel and the People.

Dated: Waterloo, New York
September 29, 2025

ENTER

A handwritten signature in black ink, appearing to read "Barry Porsch", written over a horizontal line.

Hon. Barry Porsch
COUNTY COURT JUDGE