

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: September 24, 2026

CR-24-0145

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

TERELL R. WILSON,

Appellant.

Calendar Date: August 19, 2026

Before: Garry, P.J., Fisher, Powers, Corcoran and Ryba, JJ.

John R. Trice, Elmira, for appellant, and appellant pro se.

F. Paul Battisti, District Attorney, Binghamton (*Mary E. Saitta* of counsel), for respondent.

Fisher, J.

Appeals (1) from a judgment of the County Court of Broome County (Joseph Cawley, J.), rendered November 6, 2023, upon a verdict convicting defendant of the crimes of resisting arrest and criminal impersonation in the second degree, and (2) from a judgment of said court, rendered November 6, 2023, upon a verdict convicting defendant of the crime of criminal possession of a weapon in the second degree.

On October 31, 2020, at approximately 1:40 a.m., defendant was stopped by a state trooper at a sobriety checkpoint in the Town of Dickinson, Broome County. The trooper suspected defendant of being impaired by marihuana and directed him to a designated area for additional screening, which ultimately led to the discovery of a

handgun and a scuffle with other troopers. Defendant was taken into custody and identified himself as another person. In a pair of indictments from May 2021 and September 2021, defendant was charged with obstructing governmental administration in the second degree, resisting arrest, criminal impersonation in the second degree and criminal possession of a weapon in the second degree. The People filed a certificate of compliance (hereinafter COC) and statement of readiness (hereinafter SOR) in September 2021.

Thereafter, defendant moved to suppress all evidence obtained as a result of the traffic stop at the sobriety checkpoint. County Court denied this motion after a hearing, at which undisclosed oral statements made by defendant were introduced by a trooper. Defendant then moved to dismiss the indictment on statutory speedy trial grounds based on the People's failure to comply with the automatic discovery provisions of CPL article 245, which County Court also denied. Following a jury trial, defendant was convicted of resisting arrest, criminal impersonation in the second degree and criminal possession of a weapon in the second degree. County Court sentenced defendant, as a second violent felony offender, to a prison term of seven years, to be followed by five years of postrelease supervision, for the criminal possession of a weapon in the second degree conviction, and to lesser concurrent prison terms for the remaining convictions. Defendant appeals.

We turn first to defendant's contention that County Court erred in denying his CPL 30.30 motion, where defendant contends that the People failed to comply with their discovery obligations by failing to file a proper COC as to stop the speedy trial clock. Specifically, defendant contends that the COC was illusory because the People failed to disclose statements that he made to troopers at the sobriety checkpoint – including that he had smoked marihuana earlier that evening. Since the People's discovery obligations under CPL article 245 are "tethered . . . to CPL 30.30's speedy trial requirements, . . . the prosecution shall not be deemed ready for trial . . . until it has filed a proper [COC]" (*People v Bay*, 41 NY3d 200, 209-210 [2023] [internal quotation marks and citation omitted]; see *People v Mazelie*, 248 AD3d 45, 49-50 [3d Dept 2025]). In determining whether a COC is proper, "the key question . . . is whether the prosecution has exercised due diligence and made reasonable inquiries to ascertain the existence of material and information subject to discovery" (*People v Bay*, 41 NY3d at 211 [internal quotation marks, brackets and citation omitted]; see *People v Coffey*, 244 AD3d 1609, 1611 [3d Dept 2025]). What constitutes "due diligence" relates "to a familiar and flexible standard that requires the People to make reasonable efforts to comply with statutory directives" (*People v Contompasis*, 236 AD3d 138, 145 [3d Dept 2025] [internal quotation marks

and citations omitted], *lv denied* 43 NY3d 1007 [2025]), whereas "an analysis of whether the People made reasonable efforts sufficient to satisfy CPL article 245 is fundamentally case-specific, as with any question of reasonableness, and will turn on the circumstances presented" (*People v Reynolds*, 239 AD3d 1098, 1099 [3d Dept 2025] [internal quotation marks, brackets and citation omitted]). When defending a challenge to a COC, the prosecution carries "the burden of establishing that they exercised due diligence and made reasonable inquiries prior to filing the COC, and, where they fail to do so, the COC must be deemed improper, the [SOR] stricken as illusory, and – so long as the time chargeable to the People exceeds the applicable CPL 30.30 period – the case dismissed" (*People v Stanley*, 246 AD3d 1218, 1223 [3d Dept 2026] [internal quotation marks and citation omitted]).

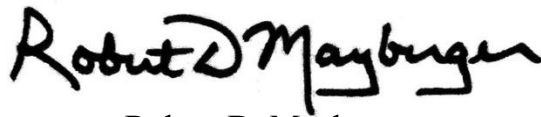
Here, although County Court correctly determined that the People failed to properly disclose the oral statements made by defendant to the trooper at the sobriety checkpoint (*see* CPL 245.20 [former (1), (2)]), County Court erred by denying defendant's challenge as untimely (*see People v Mazelie*, 248 AD3d at 51 n 5).¹ Rather, the relevant inquiry was whether the discovery violation invalidated the People's COC and SOR, which required an evaluation of whether the People exercised due diligence and made reasonable inquiries before filing the COC (*see People v Stanley*, 246 AD3d at 1223; *People v Coffey*, 244 AD3d at 1612). Since the record is inadequate for us to make this determination (*see People v James*, 229 AD3d 1008, 1012 [3d Dept 2024]), we hold the appeal in abeyance, reserve decision and remit the matter to County Court for further proceedings and a determination whether the COC was proper under CPL article 245, as it was in effect at the time, and, if not, whether the People exceeded the time within which they were required to announce readiness for trial (*see People v Presley*, 250 AD3d 1482, 1486 [3d Dept 2026]; *People v Jackson*, 250 AD3d 1140, 1144-1145 [3d Dept 2026]; *People v Stanley*, 246 AD3d at 1224; *People v Coffey*, 244 AD3d at 1613; *see also People v Sumler*, 228 AD3d 1350, 1355 [4th Dept 2024]).

Garry, P.J., Powers, Corcoran and Ryba, JJ., concur.

¹ The People did not oppose the motion on timeliness, but rather contended that the oral statement made by defendant was "irrelevant [to] the weapons charge."

ORDERED that the decision is withheld, and matter remitted to the County Court of Broome County for further proceedings not inconsistent with this Court's decision.

ENTER:

A handwritten signature in black ink, reading "Robert D. Mayberger". The signature is written in a cursive, flowing style with a large initial 'R' and a distinct 'D'.

Robert D. Mayberger
Clerk of the Court