

DISTRICT COURT OF THE COUNTY OF SUFFOLK, FIRST DISTRICT

Present:

HON JOSEPH A. SANTORELLI

Date: MAY 16, 2008

JUDGE

THE PEOPLE OF THE STATE OF NEW YORK

- AGAINST-

ANTHONY L. DELGADO,

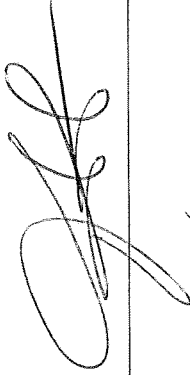
Defendant

Upon the following papers numbered 1 to 4
 read on this motion of the defendant to dismiss
 Notice of Motion and supporting papers 1 ;
 Notice of Cross Motion and supporting papers ;
 Answering Affidavits and supporting papers 2 ;
 Replying Affidavits and supporting papers ;
 Filed papers 3 (Document signed and sworn to by New York State Park Po-
 lice Officer Pirozzi [shield no. 626], 8/29/07, with annexed Alcohol
 Influence Report Form and Intoxilyzer 5000 Operational Check List) ;
 Other 4 (Decision of Santorelli, J.; 1/31/08)

it is,

ORDERED, that the motion of the defendant to dismiss is granted. The People have been on notice, since this Court's decision of January 31, 2008, that no cognizable accusatory instrument has been filed under this docket number, yet to date, have not filed any such instrument. The packet filed by the Park Police can only, at best, be deemed to be some form of appearance ticket. See, People v. Casey, 95 NY2d 354, 360. Accordingly, the matter must be dismissed. See, CPL Arts. 100 and 150; People v. Lowry, 184 Misc. 2d 306; People v. Passalacqua, 7 Misc. 3d 131(A), 801 N.Y.S.2d 240, 2005 N.Y. Slip Op. 50554(U), 2005 WL 887067 (N.Y. Sup. App. Term); People v. Conklin, 14 Misc. 3d 144(A), 2007 N.Y. Slip Op. 50385(U); 2007 WL 659972 (N.Y. Sup.App.Term, 9th & 10th Jud Dists).

Dated: June 6, 2008



J.D.C.

Decision to be published on-line: Yes No