



STATE OF NEW YORK
CITY COURT OF ALBANY
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JOHN J. REILLY
JUDGE

January 29, 2020

Amy Lavine, Esq. - Assistant Corporation Counsel
Office of Corporation Counsel
City of Albany Corporation Counsel
City Hall, 24 Eagle Street
Albany, New York 12207

Germaine Montes, Pro Se
8 McPherson Terrace #1
Albany, New York 12206

Re: **People v Germaine Montes**
File Nos. 20000303, 19752991, 19807574, 20057014, 20057950, 20075582,
20083943, 19831789, 19859348, 19782621, 20019307, 20101532, and 100049699

Enclosed please find Judge Reilly's January 29, 2020 decision and order relative to the above case(s).

Sincerely,

Sean P. Gallagher
Secretary to the Judge

STATE OF NEW YORK
CITY COURT

COUNTY OF ALBANY
CITY OF ALBANY

PEOPLE OF THE STATE OF NEW YORK

-vs-

DECISION / ORDER

**File ## 20000303, 19752991, 19807574,
20057014, 20057950, 20075582, 20083943,
19831789,19859348, 19782621, 20019307,
20101532, 100049699**

Germaine Montes,

Defendant.

APPEARANCES:

Marisa Franchini, Esq.
Corporation Counsel
City of Albany Corporation Counsel
City Hall
Albany, NY 12207

Germaine Montes, Pro Se
8 McPherson Terrace #1
Albany, NY 12206

OF COUNSEL:

Amy Lavine, Esq.
Assistant Corporation Counsel

HON. JOHN REILLY

Beginning in August and through October of 2019, defendant, Germaine Montes, received a series of parking tickets for violations alleged to have occurred in the City of Albany. The alleged violations occurred primarily in the Center Square neighborhood.

Defendant entered not guilty pleas on all of the tickets. In addition to his not guilty pleas, defendant wrote "fraud" and "do not honor" on the tickets. A trial date was set for November 4, 2019.

On November 4, 2019, defendant appeared for trial. The City was represented by the

Office of the Corporation Counsel. At the outset, defendant refused to identify himself per the Court's request. Instead, he repeatedly identified himself as "guest" claiming to be a "guest of Germaine Montes".

During the testimony of the City's first witness defendant repeatedly interrupted, challenging the jurisdiction of the Court. Defendant persisted in interrupting the witness by objecting and stating "no jurisdiction". This behavior continued despite the Court explaining to defendant that jurisdiction was an issue to be determined and that the Court noted defendant's continuing objection regarding jurisdiction. When it became clear that defendant was going to ignore the Court and continue to disrupt the proceedings, the Court gave defendant the option of allowing the trial to commence, or face the possibility of default. The Court also gave defendant the option of submitting his arguments in writing. Defendant opted to submit, provided that he be allowed the challenge the Court's jurisdiction.

Based upon the foregoing, the Court suspended the trial and set a date for the filing of motions. The City submitted motions requesting defendant be found guilty of the parking tickets based upon his defacto default and affidavits submitted. Defendant has responded by moving to dismiss the tickets based upon lack of jurisdiction and reserving his rights pursuant to §§ 1-207 and 1-308 of the Uniform Commercial Code.

It is clear from defendant's behavior during the trial as well as his reference to the Uniform Commercial Code in his papers that he is a adherent of the "sovereign citizens" movement. *See, e.g., Paul v New York* 13 Civ 5047 (US Dist Ct, ED NY, 2013). The Second Circuit has described sovereign citizens as a "loosely affiliated group who believe that the federal and state governments lack constitutional legitimacy and therefore have no jurisdiction to regulate their behavior". *See, United States v. Ulloa* 511 Fed.Appx. 105 (2nd Cir., 2013). The

Courts have uniformly and resoundingly rejected the sovereign citizens challenge to the jurisdictions of the courts. All citizens of the United States are subject to the laws of the jurisdiction in which they reside. *Bey v. Bailey* 9 Civ 8316 (US Dist Ct, SD NY, 2010).

New York State Vehicle and Traffic Law §1202 authorizes the State of New York to establish parking regulations. New York State Vehicle and Traffic Law §1640 authorizes municipalities to enact local laws, ordinances and rules to regulate parking on municipal streets. *People v. Pilewski* 173 Misc.2d 800 (Just.Ct, Village of Great Neck, Nassau Co., 1997). The City of Albany has enacted such parking regulations in §359-87 through §359-91 of the Albany City Code. The City of Albany also established a Parking Violations Bureau, created for the adjudication of alleged parking offenses.

Based upon the foregoing, the Court finds that defendant is subject to the jurisdiction of the Court regarding his alleged violations of the City's parking regulations. His motion to dismiss, on that basis, is denied.

In addition to his challenge to the Court's jurisdiction, defendant moves to dismiss the tickets. To survive a challenge and avoid dismissal of prosecution for parking violations, parking summonses must include: 1) plate designation; 2) plate type; 3) expiration date of registration; 4) make or model of vehicle; and 5) body type of vehicle. *Vehicle and Traffic Law* §238(2); *Nestle Waters North America, Inc., v. City of New York* 121 AD3d 124 (1st Dept., 2014). The statute does not provide for levels of mis-description nor does it provide for an exception for small or typographical errors. *See, City of Troy Parking Violations Bureau v. Jyri Palm* 41 Misc.3d 1235(A) (Troy City Court, 2013). The Court of Appeals has held that a mis-description of any one of the five mandatory identification elements, required for a facially sufficient parking ticket, requires dismissal. *Matter of Wheels v. Parking Violations Bureau* 80 NY2d 1014 (1992). Here,

the Court has examined each of the parking tickets in issue, and finds that they meet the above criteria. The Court further finds, based upon the documentation submitted by the City, that defendant violated the City's parking regulations as follows:

Parking Citation

#20000303 - Guilty of No Parking

Fine \$35.00 - Surcharge \$15.00. Total \$50.00

#19752991 - Guilty of Parking in Front of a Crosswalk

Fine \$35.00 - Surcharge \$15.00. Total \$50.00

#19807574 - Guilty of Parking in Front of a Crosswalk

Fine \$35.00 - Surcharge \$15.00. Total \$50.00

#20057014 - Guilty of Parking in Front of a Crosswalk

Fine \$35.00 - Surcharge \$15.00. Total \$50.00

#20057950 - Guilty of Parking in Front of a Crosswalk

Fine \$35.00 - Surcharge \$15.00. Total \$50.00

#20075582 - Guilty of Parking in Front of a Crosswalk

Fine \$35.00 - Surcharge \$15.00. Total \$50.00

#20083943 - Guilty of Parking in Front of a Crosswalk

Fine \$35.00 - Surcharge \$15.00. Total \$50.00

#19831789 - Guilty of Parking in Front of a Fire Hydrant

Fine \$100.00 - Surcharge \$15.00. Total \$115.00

#19859348 - Not Guilty

#19782621 - Guilty of No Parking

Fine \$35.00 - Surcharge \$15.00. Total \$50.00

#20019307 - Guilty of Unauthorized Parking in Handicapped Space

Fine \$150.00 - Surcharge \$45.00. Total \$195.00

#20101532 - Guilty of Unauthorized Parking in Handicapped Space

Fine \$150.00 - Surcharge \$45.00. Total \$195.00

#100049699 - Not Guilty

The Court, therefore, finds that defendant owes \$680.00 in fines along with \$225.00 in surcharges for a total of \$905.00. The City of Albany is directed to produce an order on notice to defendant. This amount is payable to the Albany City Treasurer within 60 days of the date of service of the City's order on defendant.


The Court has considered defendant's remaining arguments and finds them to be without merit.

This memorandum shall constitute the decision and order of the Court.

ENTER.

SO ORDERED.

This ^{29th} day of January 2020
Albany, New York



John Reilly
Albany City Court Judge