

(0230Q.02)

Appellate Term of the
Supreme Court of the State of New York
for the 9th & 10th Judicial Districts,
held in Suffolk County on DEC 11 2002

MARQUETTE L. FLOYD, P.J.
ROBERT W. DOYLE
ALLAN L. WINICK JJ.

NOVEMBER 26, 2002 TERM
2002-558 S CR

-----X
THE PEOPLE OF THE STATE OF NEW YORK,
Appellant,

vs.

STUART B. VORPHAL
Respondent.
-----X

The above named appellant having appealed to this court from an ORDER of the JUSTICE COURT SOUTHAMPTON, SUFFOLK COUNTY rendered on 1/31/02 and the said appeal having been argued by RONALD E. LIPETZ, ESQ., counsel for the appellant and submitted by the RESPONDENT IN PERSON and due deliberation having been had thereon:

It is hereby ordered and adjudged that the order is unanimously reversed on the law, informations reinstated and matter remanded for all further proceedings including determination of defendant's pending motion to dismiss.

DISTRICT ATTORNEY
SUFFOLK COUNTY
200 CENTER DRIVE SOUTH
RIVERHEAD, NY 11901



STUART B. VORPHAL
P.O. BOX 256
AMAGANSSET, NY 11930

NANCY T. SUNSHINE
CHIEF CLERK
APPELLATE TERM

1966E

1966E (0125V)

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE TERM : 9th and 10th JUDICIAL DISTRICTS

PRESENT: FLOYD, P.J., DOYLE and WINICK, JJ.

THE PEOPLE OF THE STATE OF NEW YORK,

Appellant,

-against-

NO. 2002-558 S CR

DECIDED DEC 11 2002

STUART B. VORPAHL,

Respondent.

Appeal by the People from an order of the Justice Court, Town of Southampton, Suffolk County (T. DeMayo, J.), entered January 31, 2002, which dismissed the informations, sua sponte, on the ground that the defendant was denied a speedy trial pursuant to CPL 30.30 (1) (b).

Order unanimously reversed on the law, informations reinstated and matter remanded for all further proceedings including determination of defendant's pending motion to dismiss.

1966E

RE: PEOPLE v STUART B. VORPAHL
NO. 2002-558 S CR

Defendant moved to dismiss the informations as jurisdictionally defective and the court, without deciding said issue, granted defendant's motion, sua sponte, based on speedy trial grounds. Inasmuch as the People were not put on notice that the court was contemplating dismissal of the informations on speedy trial grounds and were not afforded an opportunity to respond to this issue, the lower court improperly dismissed the informations based on the aforementioned grounds (see CPL 210.45; People v Alston, 191 AD2d 176; People v Clayton, 41 AD2d 204). Accordingly, the matter should be remanded to the lower court for a determination de novo of defendant's motion to dismiss.