

Samantha Rayward

Appeal

Addendum to Section C

Summons Number: #897492584-9

The original judge made mistakes of law and fact when reaching his guilty verdict. The verdict should be reversed.

I raised the following defense at my original hearing:

" Dear Honorable Judge,

I hereby certify as follows:

I plead not guilty to this parking violation because:

-The Body Type was misdescribed.

My car was a Station Wagon and not a 4DSD

According to the court in *Critchlow v NYC Dept. of Fin. Adjudication Div.*, 2011 NY Slip Op 50765(U) Decided on April 28, 2011, Supreme Court, Queens County McDonald, J., NYC is required to dismiss a parking ticket issued to a vehicle if the warrior inserts 2DSD instead of 4DSD regardless of the state of registry (in this case, the vehicle was registered in the great state of Virginia):

"With respect to Violation No. 7324225871, this court finds that although the description of the body of the vehicle as a sedan was correct, it is not disputed that the vehicle was a two-door sedan and not a four-door sedan. Thus, the summons which

described the body type as "4DSD" contained a misdescription of the vehicle. In the respondent's memorandum of law, they concede that the two-door vehicle was misdescribed. However, the respondent contends that "the identification of the two-door sedan as a four-door sedan on a parking ticket is not a fatal mistake, because it does not reach the level of misdescription of the body type as required by "VTL §238."

"The Court of Appeals held in *Matter of Wheels, Inc., v Parking Violations Bureau*, 80 NY2d 1014 [1992] that a misdescription of any of the five mandatory identification elements mandates dismissal. Contrary to the respondent's contention, the Court of Appeals ruling in *Matter of Wheels, Inc, supra.*, does not provide for levels of misdescription and it does not provide for an exception for small errors. Here, because the body type of the car was clearly misdescribed, the Adjudication Bureau was mandated to dismiss the summons pursuant to VTL§ 238(2-b) (a)."

The correct standard to apply regardless of whether a car was registered in the NY State or out-of-state is an exact match of the body type listed on the vehicle's registration with the body type entered on the parking ticket. Above all, there is no rational basis in law or fact to create a lesser standard ("reasonably accurate") for out-of-state vehicles.

On the other hand, even if this court applied the reasonably accurate standard, a Station Wagon, SUV, Suburban, or Hatchback cannot be reasonably mistaken for a 4DSD, nor do the definitions of each body type match.

My car was a Hyundai Station Wagon, not a 4DSD as misdescribed on the parking ticket.

I have submitted a series of exhibits in support of my defense.

Due to these circumstances, please dismiss this parking ticket.

Thank you.

-I hereby certify that my testimony is the truth to the best of my knowledge. I fully understand that if my testimony is willfully false, I am subject to punishment.

-I hereby certify that the photographs and images in my exhibits are true and accurate reproductions of the originals as they existed on the date/time this parking ticket was issued.

Respectfully submitted,

Samantha Rayward"

The original judge found me guilty because:

"The respondent has been charged with violating Traffic Rule 4-08(e)(2) prohibiting stopping, standing or parking a vehicle within fifteen feet of a fire hydrant.

Respondent testifies that the summons should be dismissed because it was improperly written for this out-of-state registration, as the body type is misdescribed and submits photos of the vehicle, a copy of the registration card, the DMV's definition of a suburban, a Google definition of station wagon and sedan, and a portion of an article regarding body types by Car & Driver magazine.

Respondent's claim is not a persuasive defense, as this out-of-state registered vehicle has no windshield sticker stating how the body type is described on the registration, as would a NYS registered vehicle. Respondent presents no testimony or other evidence that this information is visible anywhere on the vehicle.

Sustained."

Argument

I offered my:

- Certified testimony
- Exhibits

Exhibit 1

NYCServ Violation Copy Internet



This is the online image of the parking ticket.

I am not guilty of this violation because:
The Body Type was misdescribed

My Hyundai was described as a "SW" (station wagon) on the Pennsylvania registration

Likewise, the Body Type of my Hyundai reasonably fits the description of a:

- Station Wagon "SW"
- SUV "SUBN"
- Hatchback

However, under no circumstances, can my vehicle be reasonably or legally described as a Sedan "4DSD." It does not fit any definition of a sedan.

For example, it does not have a trunk. This fact was plainly visible from the outside of my car (I did not have tinted windows).

The City of New York
Notice of Parking Violation

YOU MUST ANSWER WITHIN 30 DAYS OF THE DATE OF THIS TICKET IF YOU DO NOT RESPOND PENALTIES AND INTEREST WILL BE ADDED AND YOUR VEHICLE MAY BE BOOTED OR TOWED.

Permit Displayed	Permit Number	Type
N/S	N/A	N/A

Name of the Operator, if present. If not present: OWNER OF THE VEHICLE BEARING LICENSE

Plate	CD	Exp. Date	State	Plate Type
JXB7974	NS	N/S	PA	N/S
Make	Color	Year	Body Type	
HYUN	WHT	N/S	4DSD	

VIN #

THE OPERATOR AND OWNER OF THE ABOVE VEHICLE ARE CHARGED AS FOLLOWS:

(In Violation of NYC Traffic Rules, Section: 4-08(a)(2))

Fire Hydrant
5 FEET FROM HYDRANT

Place of Occurrence
S/S 68th St
10R E/of Bliss Ter

VC	Meter # / Zone	Operational	Limit	County	Pct
40				K	068

Date/Time of Offense: 05/18/21 06:21 AM
Date/Time 1st Observed: N/A

Complainant's Comments:
No driver, no permit

FINE AMOUNT: \$ 115.00

Agency	Command	Tax Reg #	Device ID
TRAFFIC	T-302	343918	HA6321

Complainant's Name
MARTINEZ, M.

Signature of Complainant
M. Martinez

Within 30 days of penalty (Penalty Code 212-45) that is personally observed by officer charged with the violation, the operator may request a hearing. If the operator does not request a hearing, the operator will be deemed to have accepted the penalty. If the operator does not request a hearing, the operator will be deemed to have accepted the penalty.

X *M. Martinez*

TURN OVER FOR IMPORTANT INFORMATION ON HOW TO PAY OR DISPUTE THIS TICKET

Exhibit 2

COMMONWEALTH OF PENNSYLVANIA REGISTRATION CREDENTIAL

EXPIRY: AUG 31, 2021 VALID: 08/31/2020

PLATE:	JXB7974
TITLE:	75081294202 RA
VIN:	KMHD35LE8DU054346
YR/MAKE:	2013 HYUNDAI
TYPE:	SW
WID:	20244 2610 001025

EMISSIONS INSPECTION REQUIRED/DIESEL VEHICLES EXEMPT COUNTY: BUCKS

RICHARD RAYWARD
3 JUNIPER CT
NEWTOWN PA 18940

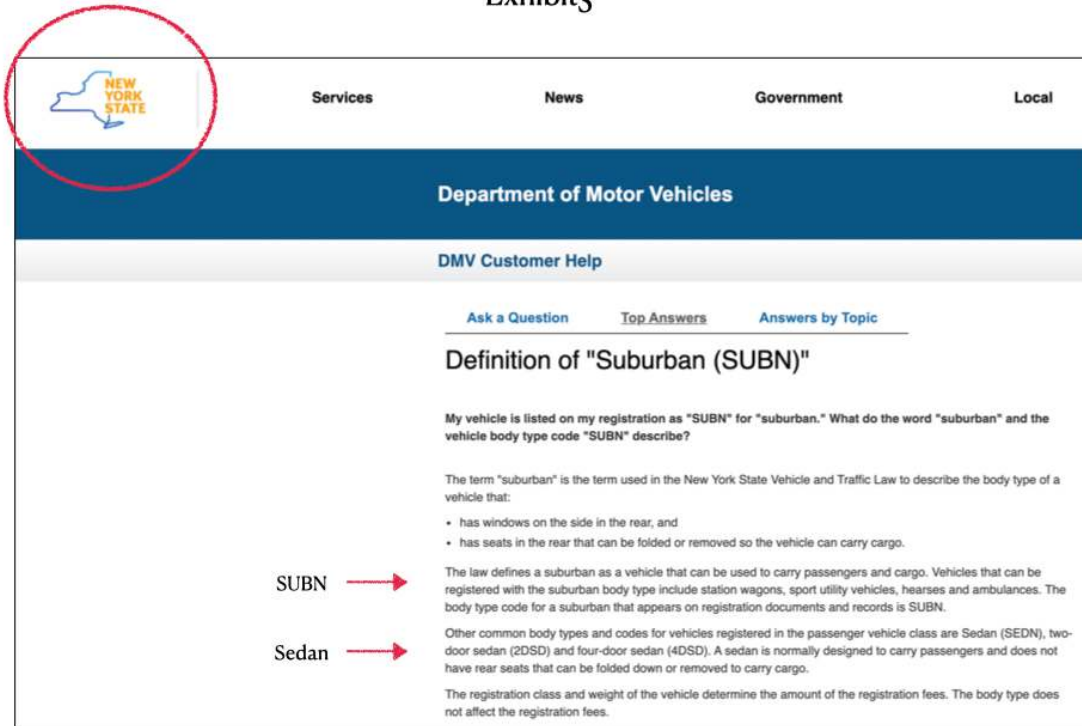
Richard Rayward
SIGNATURE

I hereby acknowledge this day that I have received notice of the provisions of Section 3709 of the Vehicle Code.



This is the Hyundai's Pennsylvania registration. The Body Type is "SW" (station wagon)

Exhibit 3



The screenshot shows the New York State Department of Motor Vehicles website. At the top left, the New York State logo is circled in red. The navigation menu includes 'Services', 'News', 'Government', and 'Local'. Below the navigation is a dark blue header with 'Department of Motor Vehicles' in white. Underneath is a light grey header with 'DMV Customer Help'. There are three links: 'Ask a Question', 'Top Answers', and 'Answers by Topic'. The main content is titled 'Definition of "Suburban (SUBN)"'. It contains a question: 'My vehicle is listed on my registration as "SUBN" for "suburban." What do the word "suburban" and the vehicle body type code "SUBN" describe?'. The answer explains that 'suburban' is a term used in New York State Vehicle and Traffic Law to describe a vehicle with windows on the side in the rear and foldable rear seats. It lists 'SUBN' as the body type code for such vehicles. It also defines a 'Sedan' as a vehicle with two or four doors, designed to carry passengers and not have foldable rear seats. Finally, it notes that registration class and weight determine fees, while body type does not.

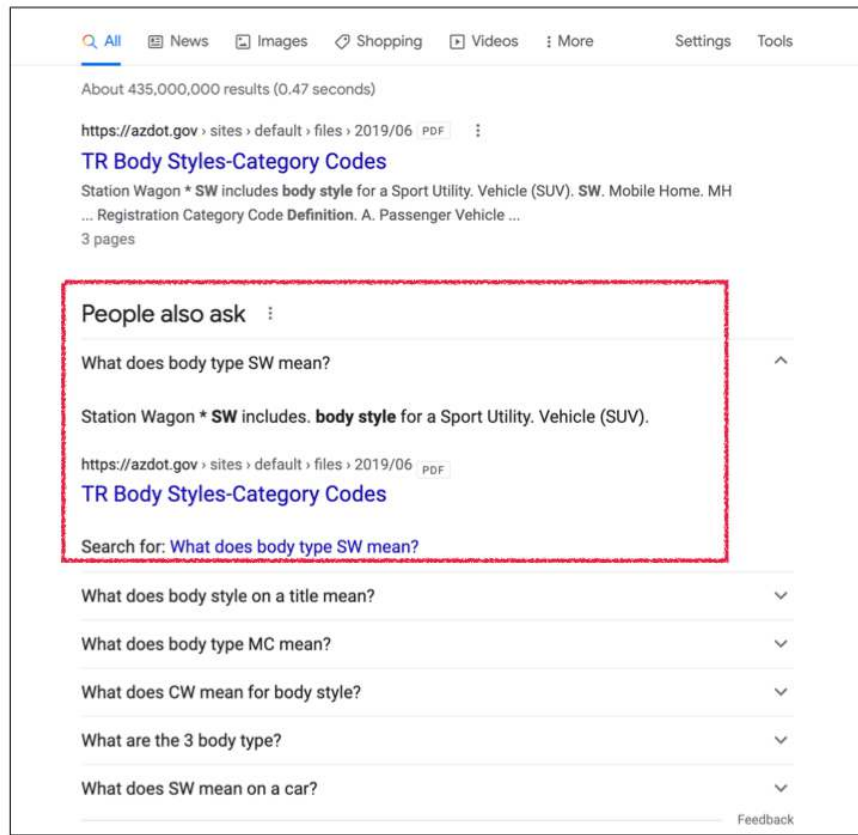
SUBN →

Sedan →

My Hyundai does not fit the NY State DMV definition of a Sedan

Exhibit 4

I searched Google for the Definition of "SW"



Search: All News Images Shopping Videos More Settings Tools

About 435,000,000 results (0.47 seconds)

[https://azdot.gov](https://azdot.gov/sites/default/files/2019/06) › sites › default › files › 2019/06 PDF

TR Body Styles-Category Codes

Station Wagon * SW includes **body style** for a Sport Utility. Vehicle (SUV). SW. Mobile Home. MH ... Registration Category Code Definition. A. Passenger Vehicle ...

3 pages

People also ask ⋮

What does body type SW mean? ^

Station Wagon * **SW** includes. **body style** for a Sport Utility. Vehicle (SUV).

[https://azdot.gov](https://azdot.gov/sites/default/files/2019/06) › sites › default › files › 2019/06 PDF

[TR Body Styles-Category Codes](#)

Search for: [What does body type SW mean?](#)

What does body style on a title mean? v

What does body type MC mean? v

What does CW mean for body style? v

What are the 3 body type? v


What does SW mean on a car? v

Feedback

Exhibit 5

People also ask :

What is the meaning of sedan car? ^

 The current **definition** of a **sedan** is much the same as it's always been: a passenger **car** with four doors and a separate trunk. ... **Sedans** are described as having "three-box" bodies: the front box is home to the engine; the middle box is larger and houses the passengers; and the third box, located in the rear, is the trunk. Jul 7, 2019

<https://www.caranddriver.com/sedan-vs-hatchback> v

[Sedans vs. Hatchbacks – Differences Explained - Car and Driver](#)

Search for: [What is the meaning of sedan car?](#)

What is a Sedan vs Coupe? v

This is a Google search engine results page for the definition of Sedan. The difference between a sedan and a hatchback was plainly visible. The vehicles cannot be reasonably mistaken for each other

Exhibit 6



4DSD

“Car and Driver” published an excellent analysis of the differences between a 4DSD and Hatchback

*“The current definition of a sedan is much the same as it’s always been:
a passenger car with four doors and a separate trunk.”*

*A trunk is a wholly enclosed cargo hold, separated from the passenger compartment
by the rear seat back and the immovable package tray below the rear window
Sedans are described as having “three-box” bodies: the front box is home
to the engine; the middle box is larger and houses the passengers; and the third box,
located in the rear, is the trunk.*

These are the classic proportions of a sedan and have been for more than 70 years.

Exhibit 7



I took this photo and the following photos of my Hyundai station wagon shortly after this ticket was issued

Exhibit 8



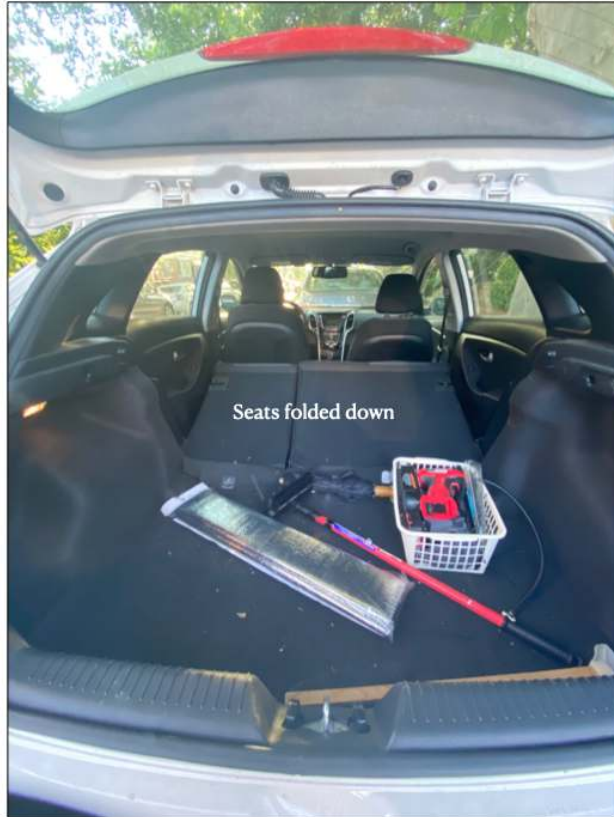
Exhibit 9



Exhibit 10



Exhibit 11



The original judge exhibited a prejudice against the Petitioner by his failure to engage in a thoughtful, fair-minded weighing of all the credible, evidence. And, by doing so, he made mistakes of law and fact.

It is well settled that the body type of a vehicle is a required element and must be described correctly on a parking summons. However, NYC applies a lesser standard of "reasonably accurate" to out-of-state vehicles.

In my case, the body type that appeared on the registration was "SW" or station wagon. The TEA entered 4DSD."

The sole reason the judge denied my defense was:

"Respondent's claim is not a persuasive defense, as this out-of-state registered vehicle has no windshield sticker stating how the body type is described on the registration, as would a NYS registered vehicle. Respondent presents no testimony or other evidence that this information is visible anywhere on the vehicle."

That was a mistake.

The judge did not claim that the TEA's description of my vehicle was correct or even reasonably accurate. Instead, the judge applied a standard that did not exist.

There is no precedent in case law or otherwise to judge the accuracy of the body type of an out-of-state vehicle based on the existence or non-existence of a window sticker. Or, the correct body type appearing somewhere on the vehicle.

In the same vein, if the judge's standard was correct, the TEA should have entered, "NS," rather than guessing that my car was a 4DSD. A 4DSD has an enclosed trunk. My station wagon did not have an enclosed trunk, which was plainly visible from the outside of the vehicle. The TEA's guess was neither correct nor reasonably accurate.

I presented substantial, certified evidence that cannot be characterized as patently incredible in support of my defenses. (See, *Young v City of New York Dept. of Fin. Parking Violations Adjudications* 2007 NY Slip Op 51460(U) [16 Misc 3d 1117(A)] Decided on June 13, 2007 Supreme

Court, New York County Goodman).

Please right this wrong and dismiss the parking ticket.

Respectfully submitted,

Samantha Rayward