

## FAVORABLE DWI RESULTS 2009

### KEY TERMS:

<b>VTL: Vehicle and Traffic Law</b>
<b>PL: Penal Law</b>
<b>BAC: Blood Alcohol Content</b>
<b>DWAI (VTL 1192.1): driving while ability impaired-a traffic infraction same level violation as a speeding ticket; Lesser included offense for a common law DWI</b>
<b>DWI: driving while intoxicated as a misdemeanor Criminal charge with possibility of up to 1 year in jail.</b>
<b>DWI (VTL 1192.3): misdemeanor common law driving while intoxicated</b>
<b>DWI (VTL 1192.2): misdemeanor where breath test .08 BAC or greater</b>
<b>Aggravated DWI (VTL 1192.2a): misdemeanor where breath test is .18 BAC or greater, criminal charge with possibility of up to 1 year in jail.</b>
<b>AUO: Aggravated Unlicensed Operation of a Motor Vehicle (varying degrees), criminal charge with the possibility of mandatory jail time depending on charge</b>
<b>EWOC: Endangering the Welfare of a Child (PL 260.10), criminal charge with possibility of up to 1 year in jail.</b>
<b>Bench trial: trial before a judge only, judge makes all factual and legal decisions</b>

### JANUARY 2009:

#### **People v. N.- Town Court**

One Count of misdemeanor DWI (VTL 1192.3), one count of a violation of Disorderly Conduct. ALL CHARGES DISMISSED upon defense motion. (due to untimely service of supporting depositions)

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#### **People v. J.- Town Court**

One count of misdemeanor DWI (VTL 1192.3). Bench trial held. ALL CHARGES DISMISSED.

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#### **People v. J. -Village Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC.13.  
Negotiated a plea to the mere traffic infraction of DWAI with the District Attorney's Office based upon the facts of the case.

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**People v. C.- Town Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC.15. Negotiated a plea to the mere traffic infraction of DWAI with the District Attorney's Office based upon the facts of the case.

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**People v. T. -Town Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC.14. Negotiated a plea to the mere traffic infraction of DWAI with the District Attorney's Office based upon the facts of the case.

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**People v. L.- City Court**

One count of misdemeanor DWI (VTL 1192.3). Bench trial held. DWI CHARGE DISMISSED, guilty of the mere traffic infraction of DWAI.

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FEBRUARY 2009:

**People v. C.- Town Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC .14. Bench trial held. 2 DWI CHARGES DISMISSED, guilty of the mere traffic infraction of DWAI.

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**People v. J.- Town Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC .12. Bench trial held. 2 DWI CHARGES DISMISSED, guilty of the mere traffic infraction of DWAI.

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**People v. M.- Town Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC. 12.  
ALL CHARGES DISMISSED upon defense motion. (due to improper non-service of the tickets on client)

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MARCH 2009:

**People v. C. – Town Court**

One count of misdemeanor Aggravated DWI (VTL 1192.2a), BAC. 19, One count of misdemeanor DWI (VTL 1192.3) and One Count of misdemeanor Endangering the Welfare of a Child (PL 260.10). AGGRAVATED DWI DISMISSED prior to trial upon defense motion due to lack of breath test documents. Bench trial held. DWI and ENDANGERING THE WELFARE OF A CHILD DISMISSED, guilty of the mere traffic infraction of DWAI.

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**People v. R.- Town Court**

One count of misdemeanor DWI (VTL 1192.3). Bench trial held. DWI CHARGE DISMISSED, guilty of the traffic infraction of DWAI.

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**People v. C. - Town Court**

One count of misdemeanor Aggravated DWI (VTL 1192.2a), BAC.26, One count of misdemeanor DWI (VTL 1192.3). ALL CHARGES DISMISSED upon defense motion. (because People failed to provide a motion response)

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APRIL 2009:

**People v. M. – Town Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), .16 BAC. Bench trial held. 2 DWI CHARGES DISMISSED, guilty of the mere traffic infraction of DWAI.

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JUNE 2009:

**People v. A. – City Court**

One count of misdemeanor DWI (VTL 1192.3). Bench trial scheduled. Officer did not show for the trial date. ALL CHARGES DISMISSED based on defendant's motion. (speedy trial grounds)

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**People v. S. –Town Court**

One count of misdemeanor DWI (VTL 1192.3). Bench trial held. DWI CHARGE DISMISSED, guilty of the mere traffic infraction of DWAI.

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**People v. J. - Town Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC.11. Bench trial scheduled and prior to trial negotiated a plea to the mere traffic infraction of DWAI with the District Attorney's based upon the facts of this case.

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JULY 2009:

**People v. R. – Town Court**

One count of misdemeanor DWI (VTL 1192.3) with a motor vehicle accident. Bench trial was held. ALL CHARGES DISMISSED.

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**People v. E.- Town Court**

Two counts of misdemeanor (VTL 1192.3 & 1192.2), BAC.16, One Count of misdemeanor Aggravated Unlicensed Operation of a Motor Vehicle in the 3<sup>rd</sup> Degree with a motor vehicle accident. Bench trial held. ALL CHARGES DISMISSED.

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**People v. N.- Town Court**

One Count of misdemeanor DWI (VTL 1192.3), one count of a violation of Disorderly Conduct. ALL CHARGES DISMISSED upon defense motion. ( speedy trial grounds)

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**People v. A.- Town Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC.14. Bench trial scheduled and on day of trial, negotiated a plea to the mere traffic infraction of DWAI with the District Attorney's Office based upon facts of this case.

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SEPTEMBER 2009:

**People v. E. – Town Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC.17. Bench trial scheduled and on day of trial, ALL CHARGES DISMISSED on defense motion. (in the Interest of Justice because the Officers failed to appear for the trial)

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**People v. K. – City Court**

One count of misdemeanor DWI (VTL 1192.3), One Count of misdemeanor Criminal Possession of a Controlled Substance in the 7<sup>th</sup> Degree (prescription medication) [PL 220.03]. Criminal Possession of a Controlled Substance in the 7<sup>th</sup> Degree CHARGE DISMISSED prior to trial upon defense motion for insufficient supporting deposition. Bench trial held. DWI CHARGE DISMISSED, guilty of the mere traffic infraction of DWAI.

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OCTOBER 2009:

**People v. N. – Town Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC. 11 with a motor vehicle accident. Negotiated a plea to the mere traffic infraction of DWAI with the District Attorney's Office based upon the facts of the case.

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**People v. D. – Village Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC. 08. A probable cause hearing was held to determine if the police had a legal reason to stop the client. Court found that there was no probable cause for the stop and arrest of the client and ALL CHARGES DISMISSED.

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**People v. B. – Town Court**

One count of misdemeanor DWI (VTL 1192.3). Bench trial held. DWI CHARGE DISMISSED, guilty of the mere traffic infraction of DWAI.

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NOVEMBER 2009:

**People v. W. – Town Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC.14. Bench trial held. 2 DWI CHARGES DISMISSED, guilty of the mere traffic infraction of DWAI.

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**People v. S. – Town Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC.11. Prior to trial the DWI (VTL 1192.2) CHARGE WAS DISMISSED upon defense motion because People failed to provide breath documents. Bench trial held. DWI CHARGE (1192.3) DISMISSED, guilty of the mere traffic infraction of DWAI.

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**People v. J. – Town Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC.17. ALL CHARGES DISMISSED upon defense motion. (because People failed to provide a motion response)

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**People v. C. – Town Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC.13 in Irondequoit Town Court ALL CHARGES DISMISSED upon defense motion. (because People failed to provide a motion response)

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**People v. M. – Town Court**

One count of misdemeanor DWI (VTL 1192.3). Bench trial held. DWI CHARGE DISMISSED, guilty of the mere traffic infraction of DWAI.

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**People v. K. – Town Court**

One count of misdemeanor DWI (VTL 1192.3). Bench trial held. ALL CHARGES DISMISSED.

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**People v. S. – Town Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC.17. Bench trial held. 2 DWI CHARGES DISMISSED, guilty of the mere traffic infraction of DWAI.

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DECEMBER 2009:

**People v. R. – City Court**

One count of misdemeanor DWI (VTL 1192.3). Bench trial scheduled. Officer did not show for the trial date. ALL CHARGES DISMISSED on defense motion. (on speedy trial grounds)

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### **People v. Z. – Town Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC. 14, one count of misdemeanor Aggravated Unlicensed Operation of a Motor Vehicle in the 3<sup>rd</sup> Degree. Bench trial held. DWI (VTL 1192.2) and AUO 3<sup>rd</sup> CHARGES DISMISSED upon defense motion for a trial order of dismissal because People failed to prove their prima facie case on these charges. DWI and ALL OTHER CHARGES DISMISSED.

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### **People v. S. – Town Court**

Two counts of misdemeanor DWI (VTL 1192.3 & 1192.2), BAC. 12. Negotiated a plea to the mere traffic infraction of DWAI with the District Attorney's Office based upon the facts of the case. Client had a Michigan driver's license.

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The above favorable results do not include other favorable results wherein a Felony DWI was reduced to a misdemeanor DWI or an Aggravated DWI was reduced to a regular DWI.

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