

**STATE OF NEW YORK COUNTY OF WAYNE
JUSTICE COURT VILLAGE OF LYONS**

THE PEOPLE OF THE STATE OF NEW YORK,

ANSWERING AFFIDAVIT

vs.


John Murtari,

Defendant.


STATE OF NEW YORK)
) ss:
COUNTY OF WAYNE)

David V. Shaw, being duly sworn, deposes and says:

1. I am an attorney at law licensed to practice in the State of New York.
2. I am a duly appointed Assistant District Attorney for the County of Wayne.
3. I have been assigned prosecution of the above matter.
4. Defendant moves to dismiss both counts of Making Graffiti (Penal Law §145.60 – 1/27/10 and 2/18/10), both counts of Possession of Graffiti Instruments, Penal Law §145.65 same dates, and both counts of Trespass, Penal Law §140.05.
5. The People do not oppose dismissal of the Making Graffiti and Possession of Graffiti Instruments.
6. We do, however, oppose the dismissal of the two counts of Trespass, the accusatory instruments are legally sufficient, and allege sufficient facts with non-hearsay allegations to prove each element of trespass.



David V. Shaw
Assistant District Attorney

Sworn to before me this
16th day of March 2010

 Notary Public
 LORI L. PECK
 Notary Public, State of New York
 Wayne County
 My Commission Expires 6/27/10