

**This opinion is uncorrected and subject to revision in the Official Reports. This opinion is not available for publication in any official or unofficial reports, except the New York Law Journal, without approval of the State Reporter or the Committee on Opinions (22 NYCRR 7300.1)**

SHORT FORM ORDER  
SUPREME COURT - STATE OF NEW YORK  
CRIMINAL TERM, PART K-21, QUEENS COUNTY  
125-01 QUEENS BOULEVARD, KEW GARDENS NEW YORK 11415

PRESENT : HON. MARK H. SPIRES  
JUSTICE

-----X  
THE PEOPLE OF THE STATE OF NEW YORK      IND. NO.: 10562/99

-AGAINST-

HEARING: HUNTLEY

LEON AGEDA

Defendant(s)

-----X

For the motion  
Robert Didio, Esq. for  
Scott Brettschneider, Esq.

Opposed  
Kimathi Gordon-Somers, A.D.A.  
Karen Rankin, A.D.A.

A hearing was held before this Court on December 15, 1999 to determine whether a statement made by this defendant to Detective Fred Iaccino was made in a knowing, voluntary and intelligent fashion, and legally admissible in the trial of this matter.

The People called Detective Fred Iaccino as a witness at this hearing. The defendant did not present any witnesses. This Court makes the following findings of fact conclusions of law.

Detective Fred Iaccino, an eight (8) year veteran of the New York City Police Department, testified that he had been assigned as a detective in narcotics investigations for the last two (2) years. He was trained in the packaging and identification of narcotics, in the New York City Police Department. He has been continuously assigned to the Southeast Queens Initiative, Queens Narcotics.

On March 18, 1999, Detective Iaccino was assigned to this unit, as part of a

search warrant execution team. At approximately 6:30 a.m., on this date, the detective assisted in the execution of a search warrant at 172-34 Brocher Road, in Queens County. This was search warrant #207. The situs of the search warrant was a one family residence, specifically the basement apartment.

When the police team entered the house, they entered through the side door into a vestibule. A flight of stairs to the basement was directly in front of them. The team went down the stairs to the basement, where they found another door. They entered through the door, and found themselves in a kitchen area, the common area of the apartment. Entry through both doors was forced, as permitted by the warrant. (T-8)

Once in the kitchen area, the detective noticed a sink and a table. The detective observed bedroom doors on all sides of this common kitchen area. On the left, the detective noticed an open door, to an empty room. The team then went to the second door, which was closed. They "rammed" the door. (T-9)

When the detective entered this second room, he observed an individual, the defendant, standing, with his hands up, near a shoe box, by a window. Inside this room was a bed, furniture and "male" clothing.

The detective then asked the defendant to "please get on the floor." (T-14) The defendant complied. The detective then went to the window and retrieved the shoe box. Inside the box, which was uncovered, the detective observed numerous packages containing whitish-yellowish substances, in rock form, large and small. After seeing this box, the detective handcuffed the defendant. The defendant was then formally placed under arrest. The defendant then sat on the bed in this bedroom, handcuffed, while the team continued executing the search warrant. Another police officer remained in the bedroom with the defendant.

After checking out the rest of the basement apartment, another individual was placed under arrest.

The detective returned to the defendant's bedroom to finish the search of the room. When he completed the search of the bedroom, the detective proceeded to fill out a

personal property envelope. The detective explained that the purpose of this envelope is to hold property recovered from individuals who were arrested whether it was contraband or personal effects. The form requires details about the individual, pedigree information. This is done to identify the defendant with the property taken. Then, the actual property recovered is vouchered, as evidence. The property is then sealed in a envelope, with the form attached..

In filling out the form, the detective asked the defendant what his name was, if this (location) was his address and what his address was. (T-20) He also asked the defendant his age, as consistent with the information required on this form. The detective explained that this form was to remain part of the paperwork required in this case. The original envelope holding the property was to be discarded once the property was formally vouchered.

As the defendant answered the detective's questions, the detective recorded his answers on the form. When asked about his address, the detective stated that the defendant provided the address as the basement apartment.

The paperwork of the detective and the notice (710.30) indicates that the time the defendant provided his pedigree statements to him was 7:30 a.m.. The detective testified that the entry took place at 6:30 a.m., and the search of the apartment lasted approximately five (5) minutes. The detective added that the defendant lived in the room, at that address. However, the detective stated he only listed the numerical address for the form.

The defendant asks this Court to preclude the statement, in sum and substance, that he "lived in the room at that address." The defendant first argues that he received notice of a statement that was made at 7:30 a.m., fifty five (55) minutes after the statement at issue, and that the notice is defective. For this reason, the defendant asks this Court to preclude the statement. In addition, the defendant asks this Court to note that the "noticed" statement and the statement testified to, are different. The defendant suggests the existence of a second statement.

In the alternative, the defendant asks this Court to suppress the defendant's statement, because the defendant was not given his Miranda rights. The defendant argues that he was in custody at the time he made the statement, and was coerced into making the statement. The defendant argues that the true purpose in the detective's inquiry of the defendant was not pedigree, but to elicit incriminating evidence from the defendant to support the arrest. The statement that the defendant lived in the room, he argues, is not pedigree information, but a statement that required Miranda warnings.

The People urge this Court to deny the defendant's application. The People argue that the detective acted properly, consistent with police procedure, in the execution of the search warrant. The People argue that when the detective first observed the defendant, he was in close proximity to a quantity of drugs. None of the questions asked of the defendant related to the drugs, but were only proper pedigree questions consistent with police procedure. The detective's recitation of the statement at the hearing, was consistent, in sum and substance.

CPL §710.30 specifies that whenever the People intend to offer at trial evidence of a statement made by a defendant to a public servant, the People must serve upon the defendant a notice of such intention, specifying the evidence intended to be offered. see, People v. O'Doherty, 70 NY2d 479 (1981). see, also, People v. Spruill, 47 NY2d 170 (1977). This mandatory notice to the defendant of a statement made by a defendant to a law enforcement officer is required even with regard to a statement the defendant allegedly made spontaneously. see, People v. Chase, 85 NY2d 493 (1995).

For a notice of a statement to be adequate, the People are required to inform the defendant of the time and place of the statement, and the sum and substance of the statement. see, People v. Lopez, 84 NY2d 425 (1994). The notice is adequate if it provides the defendant with the "sum and substance" of his oral statement. see, People v. Bennett, 56 NY2d 837 (1982).

However, the law provides that certain types of statements are exceptions to the requirements of notice, pursuant to statute. CPL §710.30. Rodney, supra. see, also,

People v. Berkowitz, 50 NY2d 333 (1980). Pedigree information given to questions designed to meet administrative, not investigatory needs are excepted from both Miranda requirements and the notice requirements of the criminal procedure law. Rodney, supra. see, also, People v. Rivera, 20 NY2d 304 (1970).

Courts have found the "pedigree" exception includes a defendant's address (Rodney, supra; Rivera, supra) employment (Rodriguez, supra, see, also, People v. Thomas, 195 AD2d 301 (1st Dept. 1993)), and false names. (see, People v. Miller, 123 AD2d 721 (2d Dept. 1986)

In People v. Burks, 227 AD2d 905 (1996) the Appellate Division, Fourth Department, decided that it was entirely proper to allow statements made by the defendant that he lived in the home where the drug transactions occurred. In Burks, no notice was provided to the defendant. This statement, provided to law enforcement by the defendant, was found to be pedigree information.

In People v. Hamilton, 227 AD2d 669 (1996), the Third Department decided that it was proper for the People to introduce a defendant's statement that he lived in the basement apartment at a specific address, without CPL §710.30 notice. The Third Department found that the defendant's statement about his residence where drugs were found was obtained in response to routine questions asked during "booking." There is no evidence that a question about a defendant's residence is a disguised attempt at investigation interrogation. Hamilton, at 671.

A fair reading of the law in this area clearly demonstrates the admissibility of the defendant's statement. The defendant's response to the detective's questions, among others, about his residence is admissible as pedigree information, during a routine arrest and property processing. In fact, the law is specific in that the People were not required to provide the defendant with notice of this statement, the trigger for this hearing.

The defendant's argument that the statement repeated by the detective at this hearing, from that on the CPL §710.30 notice, is different. The statement notice provides that the defendant's statement is the "sum and substance" of what the People

intend to offer at trial. (see Court file of this date). The difference in the paper and the words of the detective at this hearing are insignificant. see, CPL §710.30 et. seq. see, also, Rodney, supra. In addition, the defendant's claim that this is the wrong statement must fall; there was not testimony or proof elicited about a second statement.

This Court finds no reason for preclusion of this statement. The defendant's motion to suppress the statement must also fail. The defendant has failed to elicit any testimony that the pedigree question, part of a voucher form filled out by the detective and defendant as they sat side by side on the defendant's bed, was asked by the detective with an investigatory motive. While the People must move forward with the initial burden showing a statement's lawfulness, the defendant must establish an improper motive on the part of law enforcement to warrant suppression. see, CPL §710,30, §710,60, et. seq.

Accordingly, this Court is compelled to find the defendant's motion to suppress this statement and preclude it, to be without merit. The defendant's motion is denied in all respects.

This is the decision and order of this Court.

Kew Gardens, New York

Dated

---

MARK H. SPIRES, J.S.C.