

People v Jason Young

Motion No: 2021-1065

Slip Opinion No: 2021 NYSlipOp 64234(U)

Decided on March 30, 2021

Appellate Division, First Department, Motion Decision

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Supreme Court of the State of New York
Appellate Division, First Judicial Department

BEFORE: Hon. Judith J. Gische
Justice of the Appellate Division

The People of the State of New York,

Motion No. 2021-1065
Ind. No. 803/2020
Case No. 2021-00989

-against-

ORDER

Jason Young,
Defendant.

An application having been made by the defendant, pursuant to CPL 245.70(6), for expedited review of a ruling of a Justice of the Supreme Court, Bronx County (J. John Carter), as set forth in an order of that court, dated March 18, 2021, filed under seal, and, upon review, to modify or vacate the ruling,

Now, upon reading and filing the papers with respect to the motion, it is

Ordered that the application is granted only to the extent that the Court's protective order for all "civilian" witnesses other than Witness A is vacated, without prejudice. In its ex parte application the People did not identify for the court the particular individuals it was seeking to protect, either by name or some other identity marker or by some common attribute they shared regarding their connection to the prosecution of the case. In the absence of such basic information about these civilian witnesses' connection to the case, there was an insufficient basis to establish good cause for protection. Merely being a civilian is not enough. Supreme Court should have denied protection without prejudice to a more particularized application being made. It is further

Ordered that the application is otherwise denied. The court providently exercised its discretion in holding a partial ex parte hearing pursuant to CPL 245.70(1) with respect to Witness A. The People gave defendant's counsel advance notice that it would be seeking an ex parte Order of Protection. The Court directed the People to disclose the general nature of the information it was seeking to withhold until a time closer to trial and otherwise protect. Although the Court did not require the People to identify to defendant's counsel the specific reasons it was seeking protection, defendant was able to and did make arguments based upon the statutory factors that the court may consider when an application is made pursuant to CPL 245.70(4). During the ex parte portion of the hearing, the People established good cause, based on those statutory criteria. The People further demonstrated that disclosure of the materials would provide at most a negligible benefit to defendant. It is further

Ordered that the papers submitted by the People under seal shall be sealed by the Clerk of this Court.

Dated: March 30, 2021
New York, New York



Hon. Judith J. Gische
Associate Justice

ENTERED: April 6, 2021