

**People v Ryan**

2006 NY Slip Op 30164(U)

June 20, 2006

Suffolk County Ct

Docket Number: 0002969/2005

Judge: James C. Hudson

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**County Court of the County of Suffolk**  
**Part 7 - State of New York**

PRESENT:

Hon. JAMES HUDSON

PEOPLE OF THE STATE OF NEW YORK,

Plaintiff,

-against-

MICHAEL RYAN,

Defendant.

ORIG. RETURN DATE: 02/28/06

FINAL SUBMIT DATE: 06/16/06

ORIG. RETURN DATE: 05/23/06

FINAL SUBMIT DATE: 06/16/06

**PLTF'S/PET'S ATTY:**

HON. THOMAS J. SPOTA  
Suffolk County District Attorney  
By: JEFFREY D. LANGLAN, ESQ.  
200 Center Drive  
Riverhead, New York 11901

**DEFT'S/RESP'S ATTY:**

WILLIAM J. KEAHON, ESQ.  
One Suffolk Square, Suite 500  
Islandia, New York 11749

Upon the following papers numbered 1 to 13 read on this motion for omnibus relief  
Notice of Motion and supporting papers 1-3; 4-10; Affirmation/affidavit in opposition and supporting papers 11, 12-13  
\_; Affirmation/affidavit in reply and supporting papers \_\_\_\_; Other \_\_\_\_; (and after hearing counsel in support of and  
opposed to the motion) it is,

Before the Court is an omnibus motion by the defendant requesting several forms of relief.  
The People consented in part and opposed in part. After careful consideration of the defendant's motion  
it is hereby:

ORDERED that the defendant's motion for further discovery is denied; and it is further

ORDERED that the People's cross-motion for reciprocal discovery pursuant to CPL 240.30,  
240.44, and 240.45 is granted; and it is further

ORDERED that defendant's motion for a bill of particulars is denied; and it is further

ORDERED that a *Huntley* hearing shall be held prior to trial to determine the admissibility  
of defendant's oral statements; and it is further

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ORDERED that the defendant's application for the release of exculpatory information from the People is granted to the extent that the People stated in their answer that they are aware of their responsibilities and will provide exculpatory information, if they exist, to the defendant on a timely manner, and it is further

ORDERED that a hearing shall be held prior to trial to determine whether there was probable cause to arrest the defendant; and it is further

ORDERED that a suppression hearing shall be held prior to trial to determine the admissibility of the physical evidence seized in this case; and it is further

ORDERED that a hearing shall be held prior to trial to determine whether any of the defendant's prior criminal convictions or bad acts may be admissible if the defendant testifies at trial; and it is further

ORDERED that a hearing shall be held prior to trial to determine whether any of the defendant's prior bad acts may be admissible against the defendant in the People's direct case.

The defendant's motion to compel the People to respond to defendant's discovery demand is denied. The motion papers did not specify the information or property sought by the defendant and were not responded to by the People. It is plain that the People have responded to many of the defendant's requests and demands. On a motion to compel disclosure, the defendant is minimally required to specify exactly what information the defendant requested and that the People refused to disclose, and under what provision of law the People were required to disclose the information. The Court is not required to expend an inordinate period of time comparing and deciphering extensive demands and the response to determine what was requested, whether the item is relevant to the case, whether the request was denied, and which statute or case law defendant relied upon to warrant court ordered disclosure. Such a procedure is also fraught with the potential of inadvertent error on the Court's part in recognizing defendant's entitlement to certain information or property. The defendant has failed to specify the requested items, therefore, their application for additional discovery at this late stage of the proceeding is denied.

The defendant's request for the release of any exculpatory materials pursuant to *Brady v. Maryland* (373 U.S. 83 [1963], 83 S.Ct. 1194) is granted to the extent that the People have acknowledged their duty to provide the defendant, in a timely manner, with any exculpatory materials, if they exist.

The defendant also submitted a Bill of Particulars within the omnibus motion. The People declined to answer it claiming that the information requested was outside the purview and scope of CPL 200.95 because it requested evidentiary matters. The People acknowledge that the dates and locations of the crimes were necessary information that must be provided to the defense, however, they claim that the information is within the felony complaint that was provided to the People.

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The purpose of a Bill of Particulars is to clarify the pleadings, it is not a discovery device (*People v. Davis*, 41 N.Y.2d 678 [1977], 394 N.Y.S.2d 865). The People are not required to include in a Bill of Particulars (1) matters of evidence relating to how the people intend to prove the elements of the crime, or (2) how the People intend to prove any item of factual information included in the bill of particulars (CPL 200.95); however, a defendant has the right to be informed of the conduct which forms the basis for the accusation in order to prepare a defense (*People v. Fitzgerald*, 45 N.Y.2d 574 [1978]), 412 N.Y.S.2d 102).

CPL 200.95(5) requires the Court to order the prosecutor to comply with a request for a Bill of Particulars if the items of factual information requested are (1) authorize to be included in a Bill of Particulars, and that (2) such information is necessary to enable the defendant to prepare or conduct his defense. Keeping in mind the requirements of CPL 200.95(5), the Court has reviewed the Demand for a Bill of Particulars along with the information contained in the felony complaint provided to the defendant, and an amended affidavit submitted by the People that provided additional information in response to the Bill of Particulars. The Court finds that the People's response to the Bill of Particulars is sufficient and no additional information needs to be provided.

The People consented to the defendant's request for a *Huntley* hearing (*People v. Huntley*, 15 N.Y.2d 72, 255 N.Y.S.2d 838, 843 [1965]) citing *Jackson v. Denno*, 84 S.Ct. 1774 [1964], 378 U.S. 368) to determine the voluntariness of the defendant's statement, therefore a *Huntley* hearing shall be held immediately prior to trial.

The defense challenged the legality of the defendant's arrest and motioned the Court to suppress the physical evidence seized in this case by requesting a *Mapp/Dunaway* hearing (*Mapp v. Ohio*, 367 U.S. 643 [1961], 81 S.Ct. 1684; *Dunaway v. New York*, 442 U.S. 200 [1979], 99 S.Ct 2248). In support of his application the defendant enclosed a sworn affidavit describing the events surrounding his arrest on August 18, 2005.

In *People v. Mendoza* (82 N.Y.2d 415 [1993], 604 N.Y.S.2d 922), the Court of Appeals stated that hearings are not automatic or generally available for the asking by boilerplate allegations. Rather, the Court is required to review the factual sufficiency of the motion, with reference to the pleadings, the context of the motion and defendant's access to information. In the case at bar the defendant has sworn sufficient facts to warrant a hearing to determine whether there was a probable cause for his arrest and whether the physical evidence in this case was legally seized. Therefore, a *Mapp/Dunaway* hearing shall be held prior to trial.

The defendant's application for *Sandoval* and *Molineux* hearings (*People v. Sandoval*, 34 N.Y.2d 371 [1974]; *People v. Molineux*, 168 N.Y. 264 [1901]) is granted. The People are also ordered to notify the defendant of any "prior uncharged criminal, vicious, or immoral conduct" that they intend to

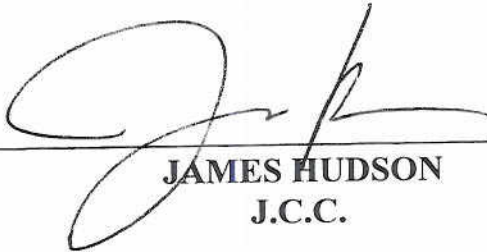
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use to impeach the credibility of the defendant (CPL 240.43) should he testify at trial. The *Sandoval* and *Molineux* hearings shall be held immediately prior to trial.

The People's cross-motion for reciprocal discover pursuant to CPL 240.30, 240.44, and 240.45 is granted.

This constitutes the decision and order of the Court.

**Dated: Riverhead, New York  
June 20, 2006**



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**JAMES HUDSON  
J.C.C.**