

People v Hammond

2007 NY Slip Op 31186(U)

May 14, 2007

Supreme Court, Queens County

Docket Number: 0000426/2007

Judge: Stephen A. Knopf

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MEMORANDUM

SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF QUEENS: CRIMINAL TERM: PART K-19

 THE PEOPLE OF THE STATE OF NEW YORK : BY: STEPHEN A. KNOFF
 :
 : DATED: MAY 14, 2007
 -against- :
 : INDICTMENT NO. 426/07
 :
 CLEVELAND HAMMOND :
 Defendant :
 -----:

The defendant, Cleveland Hammond, in an omnibus motion, seeks the following relief: inspection of the Grand Jury minutes and dismissal or reduction of the counts in the indictment, release of the Grand Jury minutes, suppression of the identification testimony or in the alternative a *Wade/Dunaway hearing*, suppression of physical evidence, suppression of the defendant's statement, a *Sandoval hearing*, *Rosario and Consolazio material*, reservation of rights and further relief.

The motion is decided as follows:

The branch of defendant's motion seeking to inspect the Grand Jury minutes and dismiss or reduce the counts in the indictment is granted to the extent that the Court has inspected the Grand Jury minutes and finds that there is sufficient legal evidence adduced to sustain the charges in the indictment.

This branch of the defendant's motion is denied in all other respects.

The branch of the defendant's motion seeking release of the Grand Jury minutes and charge is denied. Counsel has failed to demonstrate any compelling need for such relief (see, CPL § 210.30[3]).

The branch of the defendant's motion seeking to suppress the defendant's statement is granted, to the extent that a *Huntley* hearing shall be held prior to trial.

The branch of the defendant's motion seeking to suppress

physical evidence is granted to the extent that a *Mapp* hearing shall be held prior to trial.

The branch of the defendant's motion seeking to suppress identification testimony is denied insofar as there was no police-initiated identification procedure utilized in this case. After telling the police that he had received a phone call for chinese food delivery from the same person who had robbed him a few days before, the complainant was escorted by the police to the location where he was to meet the caller and the complainant upon spotting the defendant, then pointed out the defendant to the police.

The branch of defendant's motion seeking a *Sandoval* hearing is granted to the extent that such hearing will be held prior to trial. At or prior to the hearing, the People are to discharge their duty under CPL § 240.43.

The branch of defendant's motion seeking *Rosario* material is granted to the extent that the People are directed to comply with

the requirements of *People v. Rosario*, 9 NY2d 286 [1961].

The branch of the defendant's motion seeking *Consolazio* material is granted to the extent that the People are directed to comply with the requirements of *People v. Consolazio*, 40 NY2d 446 [1976].

The branch of the defendant's motion reserving the right to make further motions is granted to the extent that any additional motions are to be filed in accordance with CPL § 255.20.

The foregoing constitutes the order, opinion and decision of this court.

STEPHEN A. KNOPF, J.S.C.