

People v Grant

2007 NY Slip Op 34156(U)

December 7, 2007

Supreme Court, Kings County

Docket Number: 0005812/1995

Judge: Jill Konviser

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS: CRIMINAL TERM PART 26

-----X

THE PEOPLE OF THE STATE OF NEW YORK,	:	
	:	
-against-	:	
	:	Ind. No. 5812/95
OTIS GRANT,	:	
	:	
Defendant.	:	

-----X

JILL KONVISER, JUSTICE:

On May 20, 1996, the defendant was convicted, after a jury trial, of two counts of murder in the second degree and other crimes. He was sentenced to a term of imprisonment of fifteen years to life. The defendant has filed a pro se motion to obtain a copy of his pre-sentence report to be used in connection with a parole hearing scheduled for March, 2010. He also appears to seek a copy of the pre-sentence report for the purpose of correcting any errors contained therein. Neither the People nor the New York City Department of Probation has responded to the defendant's motion.

Procedural History

On March 15, 2006, the defendant's first pro se motion to obtain a copy of the pre-sentence report was denied by a court of coordinate jurisdiction. See People v. Otis Grant, Ind. No. 5812/95 (Sup. Ct. Kings Co. March 15, 2006) (Dowling, J.). In that opinion, a copy of which is attached to the defendant's motion papers, the Court ruled that the defendant was not entitled to

receive a copy of the pre-sentence report for the purpose of correcting any errors contained therein as such a motion was untimely. See Opinion at 1. The Court also ruled that the defendant's request to obtain a copy of the pre-sentence report to assist him in his preparation for his parole hearing was denied without prejudice as premature in that his parole hearing was not scheduled until March, 2010. Opinion at 1-2.

The Defendant's Current Motion

In the defendant's current pro se motion he again claims that he is entitled to obtain a copy of his pre-sentence report in order to: (1) correct any errors contained therein; and (2) to prepare for his parole hearing scheduled for 2010. To the extent that the defendant seeks to obtain a copy of the pre-sentence report for the purpose of correcting any errors contained therein such motion is denied as untimely as it was required to have been raised at the time of sentence. See Matter of Antonucci v. Nelson, 298 A.D.2d 388 (2d Dept. 2002); People v. Peetz, 4 Misc.3d 597 (Sup. Ct. Queens Co. 2004); People v. Harris, 187 Misc.2d 591 (Sup. Ct. Kings Co. 2001).

The defendant, however, does have the right to obtain a copy of his pre-sentence report in advance of an appearance before the Parole Board. People v. Wright, 206 A.D.2d 337 (1st Dept.), lv. denied, 84 N.Y.2d 873 (1994); People v. La Rocca, 16 Misc.3d 1118(A), 2007 WL 2230271 (West. Cty. Co. Aug. 2, 2007) (Bellantoni,

J); People v. Elliot, 8 Misc.3d 1020(A), 2005 WL 1802182 (Sup. Ct. Kings Co. August 1, 2005) (Gerges, J.); People v. Harris, 187 Misc.2d at 592. As the defendant has an appearance before the Parole Board scheduled for March, 2010, he is entitled to a copy of his pre-sentence report in advance of that proceeding. See Kilgore v. People, 274 A.D.2d 636 (3d Dept. 2000); People v. Harris, 187 Misc.2d at 592.

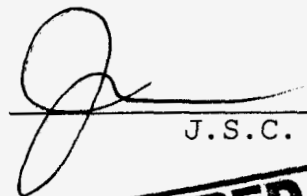
The defendant, however, is "not entitled to an unredacted copy of the report since portions may contain confidential information." People v. Peetz, 4 Misc.3d at 601, n.5; see Matter of Shader v. People, 233 A.D.2d 717 (3d Dept. 1996); People v. Delatorre, 2 Misc.3d 385 (West. Cty. Co. Nov. 18, 2003) (Adler, J.).

Accordingly, the defendant's motion for a copy of his pre-sentence report is granted to the extent that the New York City Department of Probation is **directed** to redact any and all confidential information from the pre-sentence report including, but not limited to names, addresses, telephone numbers, and shield numbers of witnesses, police officers, victims, victim's family members and friends and all other appropriate individuals and to send a redacted copy of the pre-sentence report to the defendant at his place of incarceration.

This constitutes the Decision and Order of the Court.

The Clerk of the Court is directed to mail copies of this decision and order to the defendant at his place of incarceration, the Kings County District Attorney and the New York City Department of Probation.

Dated: Brooklyn, New York
December 7, 2007



J.S.C.

ENTERED
DEC 18 2007
NANCY T. SUNSHINE
COUNTY CLERK