

**People v Drennan**

2009 NY Slip Op 32547(U)

August 17, 2009

County Court, Wayne County

Docket Number: 08-172

Judge: Dennis M. Kehoe

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STATE OF NEW YORK  
COUNTY COURT                      COUNTY OF WAYNE

ORIGINAL

THE PEOPLE OF THE STATE OF NEW YORK

-vs-

DECISION  
AND  
ORDER

BRYON D. DRENNAN,

Ind. No. 08-172

Defendant

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Wayne County District Attorney  
Richard M. Healy, Esq.  
For the People

Joseph S. Damelio, Esq.  
For the Defendant

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The Defendant Bryon D. Drennan has been charged with one count of Murder in the Second Degree by Indictment No. 08-172, in connection with the death of the Defendant's wife Stephanie Casey. On May 8, 2009, a hearing was held to determine whether certain oral statements allegedly made by the Defendant are admissible at trial, together with certain physical evidence seized by the police pursuant to a Search Warrant from a PT Cruiser owned by the Defendant.

The Court has reviewed the testimony of the witnesses and the subsequent written submissions filed by both counsel. Based on the

credible evidence, the Court makes the following Findings of Fact and Conclusions of Law.

1) On the morning of November 27, 2008 (Thanksgiving Day), the Defendant and his wife left the home of the Defendant's parents in the Defendant's PT Cruiser at approximately 9:30 to 9:45 A.M. (The couple had been residing at the Drennan home since on or about November 1, 2008.)

2) When the couple had not returned by approximately 11:30 A.M., the Defendant's mother left the residence in another vehicle to look for them, expressing concern about the Defendant's alleged medical condition.

3) During her drive, the Defendant's mother noticed a State Trooper's vehicle parked in a lot, and she stopped to talk to him briefly, expressing her concerns regarding her family's absence and giving him information about the vehicle and its occupants.

4) At approximately 1:30 P.M., the Defendant's mother received a telephone call from her husband, advising her that her son had returned home. During a subsequent conversation between the Defendant and his parents, the Defendant indicated that he had driven his wife to the airport

because she wished to return to her home in Texas.

5) On the following day, November 28, 2008, a State Police investigator called the Drennan residence to inquire about the whereabouts of the Defendant and his wife, as a follow-up to Mrs. Drennan conversation with the State Trooper which occurred the prior day. The Defendant's mother advised the investigator that Stephanie was not at the residence. The officer then asked if the police could come to the house, and she agreed.

6) Investigator Jeffrey Miller and Investigator Andrew Jasie arrived at the Drennan residence at approximately 3:00 P.M. Investigator Miller testified that, while at the residence, the officers' questions were directed toward the issue of Stephanie's whereabouts, including questions as to whether anyone could confirm that Stephanie had arrived safely in Texas. When the Defendant advised the investigators that he had received a call from her that morning on his cell phone, the number he provided to the officers for a call-back was identified as coming back to an address in Ohio. All the Defendant claimed to know was that he had dropped Stephanie at the airport. The conversation between the investigators and the Defendant lasted approximately 30 to 45 minutes.

7) The investigators then asked the Defendant if he was willing to go to the Williamson barracks to assist them in their efforts to locate Stephanie. The Defendant agreed. The investigators left in their police vehicle, and the Defendant and his father followed a few minutes later in the PT Cruiser. The Defendant's mother drove to the station by herself about one hour later.

8) When the Defendant arrived at the station with his father, he was taken to the office of a Senior Investigator, where he was interviewed for approximately 30 minutes. The Defendant continued to be vague in response to questions regarding time frames and regarding events at the airport.

9) Investigator Miller then informed the Defendant that a person had called the station on Thanksgiving morning, reporting that she had seen a vehicle driven by a white male, matching the description of the Defendant and his PT Cruiser. The male carried certain items into the woods and then left. (On cross-examination, Investigator Miller testified that these items had been retrieved by the police and included a mattress cover, a white plastic garbage pail, a black or gray women's coat and other clothing, and men's Nike sneakers which appeared to be blood-stained.

The white plastic pail contained a wooden heart bearing the names of “Bryon” and “Stephanie”, the tip of which appeared to exhibit blood stains and hair fibers.)

10) Investigator Miller testified that, at that point the Defendant asked him “what if I told you it was an accident?” (On cross-examination, the officer corrected his statement and testified that the Defendant said “what if she was hurt and it was self-defense?”). He then proceeded to tell the investigator he pulled off the side of the road at his wife’s request and that “she came at him with a knife.” The Investigator immediately stopped the Defendant and read him his *Miranda* rights at 4:27 P.M. The Defendant indicated he understood his rights, and he did not request an attorney.

11) The Investigator then asked the Defendant what had happened. The Defendant repeated his statement that Stephanie had come after him with a knife (after first cutting her wrist with it), although he could not describe the knife or where she had obtained it. He then reached behind the car seat, grabbing a ten pound weight which he kept there and struck her three times on the left side of her head. He later admitted that he had also stabbed her in the chest several times with the

tip of the wooden heart.

12) At approximately 5:47 P.M. the Defendant was given something to eat and drink. The questioning continued. Then, at 6:19 P.M. the investigator asked the Defendant if he would accompany them to the airport to view the location where he had allegedly dropped off Stephanie. He agreed.

13) Questioning continued during the ride to the airport. Upon arrival, the Defendant directed them to a spot east of the main entrance of the airport where he had allegedly left her.

14) Then, at approximately 7:22 P.M., while sitting in the police vehicle on Brooks Avenue, the Defendant said "That's it. That's all I have to say. If I have to get an attorney, I will." They then returned to the barracks.

15) At 8:14 P.M., while at the station, the investigator asked the Defendant to provide a written statement. The Defendant refused and requested an attorney.

Based on the credible testimony, the Court concludes that the questioning of the Defendant was noncustodial at the Drennan residence. The investigators entered the residence with the consent of the owners,

and the Defendant spoke voluntarily with them.

The Defendant agreed to go to the barracks to continue the interview. He drove with his father in his own vehicle. The questioning prior to his being given his *Miranda* rights was only 30 minutes in duration. The Defendant was never placed in handcuffs. No force or duress was used, and no threats or promises were made. The questioning at the station is also found to be noncustodial up to the time that *Miranda* warnings were given. The Defendant's question regarding "self-defense" was not in response to any specific police inquiry. When the Defendant started to continue his statement, he was stopped and advised as to his *Miranda* rights.

New York Courts have frequently held that the fact that the questioning of a defendant occurs at a police station does not automatically render the questioning custodial, thereby necessitating immediate *Miranda* warnings. (See, e.g. *People v Ellerbe*, 265 AD2d 569 (2<sup>nd</sup> Dept, 1999), in which the Defendant agreed to accompany the police to the precinct, unhandcuffed and otherwise unrestricted, leading the court to conclude that a reasonable person, innocent of any crime, would have believed he was free to leave the precinct.) In *People v Lunderman*, 19

AD3d 1067 (4<sup>th</sup> Dept, 2005), the Fourth Department re-summarized the criteria often used in determining whether suppression is required: "(1) the amount of time the defendant spent with the police, (2) whether his freedom of action was restricted in any significant manner, (3) the location and atmosphere in which the defendant was questioned, (4) the degree of cooperation exhibited by the defendant, (5) whether he was apprised of his constitutional rights, and (6) whether the questioning was investigatory or accusatory in nature", citing *People v Forbes*, 182 AD2d 829 (2<sup>nd</sup> Dept, 1992).

Based on the above findings and conclusions, and applying the criteria set forth in *Lunderman* the Court holds that any statements made by the Defendant either at his parent's residence, at the police station or during the ride to the airport with the police are admissible at trial. Any statements by the Defendant on the ride from the airport, following his statement that he did not wish to say anything more, are inadmissible. While his reference to speaking to a lawyer may have been equivocal, the balance of his statement constitutes an invocation of his right to remain silent.

As to the items taken from the Defendant's vehicle, the Court has

examined the papers relating to the search warrant pursuant to which the items were seized. There was little testimony elicited at the hearing regarding the circumstances surrounding the warrant. The Court finds that the application was sufficient on its face, and there having been no issues raised regarding the manner of execution of the warrant, the items seized from the vehicle are found to be admissible at trial.

This Decision constitutes the Order of the Court.

Dated: August 17, 2009  
Lyons, New York

A handwritten signature in black ink, appearing to read 'D. Kehoe', written over a horizontal line.

Honorable Dennis M. Kehoe  
County Court Judge