

People v Spears

2015 NY Slip Op 32678(U)

January 20, 2015

Supreme Court, Westchester County

Docket Number: 14-00450-01

Judge: Robert A. Neary

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SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF WESTCHESTER

-----X
 THE PEOPLE OF THE STATE OF NEW YORK

- against -

DECISION AND ORDER

LACEY SPEARS,

Ind. No. 14-00450-01

Defendant.

-----X

NEARY, J.

The defendant has been indicted for the crimes of Murder in the Second Degree and Manslaughter in the First Degree. It is alleged that, on or about January 23, 2014, the defendant, being eighteen years of age or older, and acting under circumstances evincing a depraved indifference to human life, recklessly engaged in conduct creating a grave risk of serious injury or death to her five year old son, and thereby caused his death.

On or about December 19, 2014, the defendant filed a motion *in limine* seeking the following relief:

1. Precluding the People from offering at trial certain medical records, Facebook records, Myspace and Instagram records; and

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2. Precluding the People from offering at trial certain information and photos derived from the defendant's laptop, iPhone and iPad; and
3. Precluding the People from offering any expert witness or testimony and argument at trial regarding "Munchausen by Proxy: also known as "Factitious Disorder by Proxy"; and
4. Precluding the People from offering any documents/records of any kind regarding "Munchausen by Proxy" also known as "Factitious Disorder by Proxy."

The People opposed the aforementioned motion and on or about January 12, 2015 filed a Notice of Cross Motion to Admit *Molineux* and Other Evidence at Trial. On January 15, 2015, the Court received the defendant's Affirmation in Reply to the People's reply and cross motion.

The defendant contends that a substantial portion of the People's potential evidence consists of medical, social media, telephone, laptop, iPad and iPhone records which are either so remote in time and/or subject to speculation as to be irrelevant concerning the period of time during which the People contend the crime was committed.

The medical records in question span the five (5) years of the deceased child's life and include hospitals and medical personnel in Alabama, Florida and New York. The social media, telephone, laptop, iPad and iPhone records consist of alleged postings, contacts, and searches by the defendant concerning her son's condition and illness. These records generally cover a period closer in time to the alleged commission of the crime.

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The defendant originally sought preclusion of the medical records arguing they were irrelevant and remote since they neither dealt with the dates of the alleged crime nor the cause of death as outlined in the Bill of Particulars. An argument was posited by the defendant relative to the proposed social media, telephone, laptop, iPad and iPhone evidence claiming they were irrelevant as they were not made during the time frame stated in the Bill of Particulars; would cause a jury to speculate; and were unreliable because a proper foundation for admission could not be laid.

The People's principal argument for admission of these items of evidence is they tend to establish the defendant's state of mind or the *mens rea* required for the commission of the charged crimes.

In their responsive papers which included a cross motion to admit certain *Molineux* evidence, the People agreed not to offer certain alleged evidence that was of concern to the defendant. The People have represented that:

“ . . . at this time the People do not seek to introduce . . . any expert testimony, documents, or evidence concerning the syndrome ‘Munchausen by Proxy’ as described in defendant’s motion. . . .”
[See Page 14 of Affirmation in Opposition to Defendant’s Motion to Preclude Evidence].

The People have also extensively listed certain medical, social media, laptop and iPad records that they do **not** intend to offer in evidence. [See also Page 14 mentioned above].

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Similarly, the defense in its Affirmation in Reply to the People's Cross Motion consents to the admission of certain hospital records (see Paragraph 9) and witness testimony (see Paragraph 18) which had previously been opposed.

DISCUSSION

“In New York, the general rule is that all relevant evidence is admissible unless its admission violates some exclusionary rule. . . . Evidence is relevant if it has any tendency in reason to prove the existence of any material fact; i.e., it makes determination of the action more probable or less probable than it would be without the evidence.” [See *People v. Scarola*, 71 NY2d 769].

The common definition of “material evidence” is evidence of a fact in issue or probative of a fact in issue. [See *Prince, Richardson on Evidence*, Eleventh Edition].

The “*Molineux*” rule prohibits the People from introducing evidence of a defendant's prior crimes or bad acts when the *sole* purpose of such evidence is to demonstrate that the defendant had a propensity to commit the charged offense on trial. However, when evidence of a prior crime or bad act may be relevant to demonstrate: (1) motive; (2) intent; (3) absence of accident or mistake; (4) common scheme or plan; or (5) identity, the Court is required to determine if the probative value of the evidence outweighs any prejudice that might accrue to the defendant.

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With these principles in mind, the Court will address first the defendant's motion to preclude certain evidence and secondly, the People's cross motion seeking to introduce evidence of the defendant's alleged prior crimes or bad acts.

In light of the People's assertion that they intend neither to introduce on their direct case evidence related to "Munchausen by Proxy" syndrome nor certain medical, social media, laptop and iPad records as listed at Page 14 of People's Affirmation in Opposition, the Court denies as moot that portion of the defendant's motion addressing these potential items of evidence.

Medical Records:

As to the remaining medical records and testimony the People do seek to present on their direct case, the Court finds that such evidence is relevant and material to central issues in this case. Such records tend to exclude any natural cause for the death of the alleged victim. These records also explain the circumstances under which the defendant obtained certain prescriptions and medical devices allegedly found in her constructive possession which may have contributed to the child's medical condition at or around the time of his demise.

These records are admissible also because they are inextricably interwoven into the fabric of this case. They provide a history of the child's medical issues and treatment leading up to his death. They illustrate the defendant's role as custodian and care giver. This evidence also gives context to the actions of police at the time of the child's death.

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Any statements made by the defendant to treating medical personnel would likewise appear to be admissible to provide state of mind and/or *mens rea* evidence.

Social Media, Telephone, Laptop and iPad Records:

The People's argument that certain text messages, phone records, on line searches, and social media entries of the defendant, many of which appear inconsistent to medical information she had received, are probative of her state of mind and constitute evidence of *mens rea* is persuasive and, assuming the proper foundation can be established, admissible. It would appear that any timely on line searches about the bodily effects of sodium; any photographs posted on social media, allegedly by the defendant, depicting the child's declining health; and any phone records linking her with an attempt to destroy evidence are clearly relevant and admissible as evidence in chief.

Molineux:

To the extent any of the abovementioned evidence constitutes prior crimes or bad acts on the part of the defendant, the Court finds the probative value of such evidence outweighs any potential prejudice to the defendant. The evidence in question tends to establish identity; lack of accident or mistake; and intent.

Given the nature of the evidence likely to be admitted, limiting instructions to the jury are required to assure the finders of fact understand the reasons such evidence is admitted

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and the weight, if any, they are permitted to give such evidence. Accordingly, the Court solicits, from both parties, any proposed such limiting instructions that they wish the Court to consider. Such instructions will be given both at the time the evidence may be offered and during any final charge.

For the reasons discussed above, the defendant's motion for preclusion is in all respects denied and the People's cross motion to admit *Molineux* and other evidence is granted.

As to any individual items of evidence sought to be precluded and not specifically addressed in the above discussion and decision, the defendant's motion is also denied in full.

This constitutes the opinion, decision and order of this Court.

Dated: White Plains, New York
January 20, 2015


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