

People v Patel

2016 NY Slip Op 33023(U)

April 25, 2016

County Court, Orange County

Docket Number: 2016/126

Judge: Edward T. McLoughlin

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COUNTY COURT : ORANGE COUNTY

PRESENT: HON. EDWARD T. McLOUGHLIN
County Court Judge

DECISION AND ORDER
OMNIBUS MOTION and
PEOPLE'S MOTION FOR
RECIPROCAL DISCOVERY

THE PEOPLE OF THE STATE OF NEW YORK

Plaintiff,

Ind. No. 2016/126

- against -

ALAP PATEL,

DAVID M. HOOVLER, ESQ.
District Attorney
Michael K. Purcell, Esq.
Senior Assistant District
Attorney for Plaintiff

Defendant.

PAUL G. LIEBER, ESQ.
Attorney for Defendant

Notice of Motion _____ X
Affirmation in Support _____ X
Affirmation in Response _____ X

The foregoing documents were considered in deciding this motion.

The defendant has been indicted for Operating a Motor Vehicle While Under the Influence of Alcohol, a Class E Felony (Vehicle & Traffic Law §1193(1)(c)(i) and §1992(3).

By omnibus motion, the defendant seeks various forms of relief.

INSPECTION - DISMISSAL - REDUCTION

The motion to inspect the grand jury minutes is granted to the extent that the Court has reviewed the minutes. (CPL 210.30[2][3]).

The motion to release the minutes of the testimony or the instructions to the parties to assist the Court in making a determination of the sufficiency of the evidence or the propriety of

[* 2]
the instructions is denied. (CPL 210.30[3]; People v. Fetcho, 91 N.Y.2d 765).

The motion to dismiss or reduce is denied. The indictment is based upon competent and admissible evidence which is legally sufficient to establish and provide reasonable cause to believe that the defendant committed each offense charged therein. (CPL §190.65[1]); People v. Jennings, 69 N.Y.2d 103, 115). The instructions given to the grand jury were adequate to enable the Grand Jury to make an informed and intelligent decision as to whether an indictment was authorized. People v. Calbud, 49 N.Y.2d 389, 394-95).

The motion to dismiss on the ground that the grand jury proceeding was defective (CPL §210.20(1) and §210.35) is denied.

PRECLUSION OF STATEMENTS

The defendant moves for preclusion of statements which the People may intend to offer at trial which were not the subject of a pre-trial notice. That application is denied as moot based upon the Court's understanding that no such evidence exists outside the notice previously served.

SUPPRESSION OF STATEMENTS

The defendant's motion to suppress statements alleged to have been made by the defendant as contained in the Huntley Notice served by the People is granted solely to the extent that a hearing on the motion will take place prior to trial. (CPL §710.60[4]).

SUPPRESSION OF PHYSICAL EVIDENCE AND
CHEMICAL TEST REFUSAL

The defendant moves to suppress unspecified physical evidence taken from him at the time of arrest, alleging a lack of probable cause. See United States v. Dunaway, 442 US 200. The defendant also moves to preclude evidence of his refusal to submit to a chemical test on the date in question.

The defendant's applications are granted solely to the extent that hearings will take place prior to trial. Dunaway, supra; People v. Boone, 71 AD2d 859 (2nd Dept. 1979); CPL §710.60(4).

BILL OF PARTICULARS

The defendant seeks a bill of particulars pursuant to the Criminal Procedure Law. The People have already served a bill of particulars at the time of the defendant's arraignment on March 15, 2016. The People have complied sufficiently with the requirements of CPL §200.95. Defendant's motion for a further bill of particulars is denied.

DISCOVERY AND INSPECTION

Defendant's motion for discovery is granted solely to the extent that the District Attorney is directed to make available to the defendant's attorney any and all property and information required to be disclosed at the appropriate times pursuant to CPL §240.20. At the time of defendant's arraignment on March 15, 2016, the People served a document entitled Voluntary Disclosure Form. In all other respects, the defendant's motion for discovery and inspection is denied.

[* 4]

The Prosecution has moved for reciprocal discovery pursuant to CPL §240.30. This motion is granted solely to the extent that the defendant's attorney is directed to make available to the district attorney any and all property and information required to be disclosed pursuant to CPL §240.30.

Both sides are reminded that they are under a continuing obligation to comply with the Court's directive up to and including the time of trial.

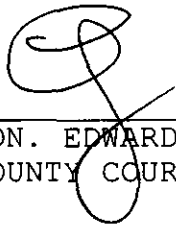
LEAVE TO FILE ADDITIONAL MOTIONS

Defendant's request for leave to file additional motions is denied unless defendant can first make a showing of good cause.

The foregoing constitutes the decision and order of the Court.

So ordered:

Dated: Poughkeepsie, New York
April 25, 2016



HON. EDWARD T. McLOUGHLIN
COUNTY COURT JUDGE

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