

People v Walters

2016 NY Slip Op 33027(U)

May 23, 2016

County Court, Orange County

Docket Number: 1432/2016

Judge: Robert H. Freehill

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ORIGINAL

COUNTY COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

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

-against-

MAURICE WALTERS, a/k/a "MO,"
RASHID FORREST and
LUIS AYALA, a/k/a "DUCK,"

Defendants.

-----X
FREEHILL, ROBERT H., J.C.C.

Indictment No. 2016-044

Index No. 1432/2016

DECISION AND ORDER

Defendant, Rashid Forrest and his co-defendants are charged in this indictment with the crime of Criminal Possession of a Weapon in the Fourth Degree by acting individually and by acting in concert with each other.

By this omnibus motion the defendant has moved for certain pretrial relief which the Court decides, having considered: 1.) the defendant's notice of motion and affirmation; 2.) the People's affirmation in response; and 3.) the transcript of Grand Jury proceedings.

Motion to Inspect Grand Jury Minutes
Motion to Dismiss or Reduce Indictment

The motion is granted to the extent that the Court has reviewed the minutes of the Grand Jury and finds that the indictment is based upon legally sufficient evidence and that the Grand Jury was properly instructed with respect to the applicable law.

Motion to Be Provided with *Brady* Material

The motion is granted to the extent that the District Attorney is directed to disclose to defendant's attorney any and all documents, materials and/or information, if any, required to be disclosed pursuant to *Brady v Maryland*, 373 US 83.

Motion for an Order Directing the Preservation of Rosario Material

The People are required to preserve and to disclose Rosario material at the appropriate time (CPL 240.45[1]). The failure to preserve and/or disclose Rosario may result in sanctions from the Court, no order is required at this time.

Motion Pursuant to *Geaslen*

The motion is granted to the extent that the District Attorney is ordered to provide to defendant's attorney, within five (5) days from the date of the notice of entry of this order, any information required to be disclosed pursuant to *People v Geaslen*, 54 NY2d 510.

Motion for a *Sandoval* Ruling

The motion is granted to the extent that a hearing is hereby ordered which will be held immediately prior to trial to determine which, if any, bad acts or convictions may be used as impeachment in the event that the defendant elects to testify at trial. The Court further orders the District Attorney to disclose to defendant's attorney any and all bad acts and convictions which will be used to impeach defendant three days prior to the commencement of trial in accordance with CPL §240.43.

Request For Bill of Particulars

The defendant's motion for the particulars sought is granted to the extent provided by the District Attorney in the Voluntary Disclosure Form previously tendered and as provided in the affirmation in response to the motion herein. In all other respects this branch of defendant's motion is denied.

Motion for Discovery and Inspection

The defendant's motion for discovery and inspection is granted to the extent information

[* 3]

has been provided to the defendant in the Voluntary Disclosure Form and as set forth in the People's affirmation in response. In all other respects, this branch of defendant's motion is denied.

Motion to Suppress Statements

The motion is granted to the extent that a hearing is hereby ordered pursuant to CPL 710.60(4) to determine the admissibility of any statements allegedly made by the defendant.

Motion to Controvert the Search Warrant
Motion to Suppress Physical Evidence

The Court has reviewed the warrant, the application and determines that there was probable cause to issue the warrant for the search of the designated property at the designated location. When reviewing this warrant, the court considered the presumption of reliability that attaches to the facts alleged in support of the warrant (*see, People v. Parris*, 83, NY2d 342 [1994]; *People v. Salgado*, 207 AD2d 918 [2nd Dept, 1994]). "Search warrant applications should not be read in a hyper technical manner but rather must be considered in the clear light of everyday experience and accorded all reasonable inferences" (*People v. Hanlon*, 36 NY2d 549, 559 [1975]).

A review of these factual allegations in support of the warrant indicates that there was probable cause to believe that a crime had been committed and that evidence of that crime was located within or on the designated vehicle which was in the City of Newburgh, Orange County, New York. Informants provided the police information involving a drive by shooting involving the target vehicle. A police officer observed the occupants of the vehicle leave the vehicle and a handgun was located at 74 Carter Street, near the location that one of the occupants of the vehicle had been walking.

[* 4]

The factual allegations in support of the warrant are presumed to be reliable [*see, People v. Parris*, 83, NY2d 342 (1994); *People v. Salgado*, 207 AD2d 918 (2nd Dept, 1994)]. Finally, there is a presumption of validity attaches to all warrants (*see, People v. Castillo*, 80 NY2d 578 [1992]; *People v. Calise* 256 AD2d 64 [1st Dept, 1998]).

The allegations of fact provide probable cause for the issuance of the warrant. “To establish probable cause, a search warrant application must provide sufficient information “to support a reasonable belief that evidence of a crime may be found in a certain place (*People v McCulloch*, 226 AD2d 848, 849; *see People v Paccione*, 259 AD2d 563, 564)” *People v Murray* ___ AD3d ___ [2d Dept 2016]. Search warrants, which generally are not composed by lawyers but rather by police officers, should not be read hypertechnically and may be “accorded all reasonable inferences” (*People v Hanlon*, 36 NY2d 549, 559). The warrant in this instance is sufficient and the facts alleged considered in the context of the applicable law provide reasonable cause for the issuance of the warrant (*People v Griffin*, 28 AD3d 578, *People v Green*, 10 AD3d 731).

Motion to Request Timely Hearings

Defendant requests that any pretrial hearings be held sufficiently prior to the time of the commencement of trial so as to allow for the transcription of the hearing minutes for use by the defendant at trial. Unless such request for transcribed minutes is withdrawn by defendant's counsel at the conclusion of any such pretrial hearing, this Court will deem defendant's request herein as one made in a timely fashion and any necessary and reasonable adjournment of trial proceedings for the purpose of transcribing hearing minutes will be granted as deemed necessary by the Court (*People v Peacock*, 31 N.Y.2d 907 [1972]).

Renewal of Motions

Defendant's blanket request for leave to make further motions is denied with leave to renew within the context of a further motion seeking specific relief.

The foregoing constitutes the Decision and Order of the Court.

Dated: Goshen, New York
- May 23, 2016



ENTERED

HON. ROBERT H. FREEHILL
County Court Judge

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