

**People v Pennie**

2016 NY Slip Op 33028(U)

June 24, 2016

County Court, Orange County

Docket Number: 1435/16

Judge: Nicholas De Rosa

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This opinion is uncorrected and not selected for official publication.

COUNTY COURT : ORANGE COUNTY  
STATE OF NEW YORK

**ORIGINAL**

-----x  
THE PEOPLE OF THE STATE OF NEW YORK,

-against-

IND. NO. 2016-73  
INDEX NO. 1435/16

DANE PENNIE,

**DECISION AND ORDER**

Defendant.

-----x  
DE ROSA, N.

Defendant is charged in this indictment with the crimes of **Criminal Possession of a Controlled Substance in the Third Degree**, a Class B Felony, in violation of §220.16(1) of the Penal Law of the State of New York; **Criminal Possession of a Controlled Substance in the Fourth Degree**, a Class C Felony, in violation of §220.09(1) of the Penal Law of the State of New York; **Criminal Possession of a Weapon in the Second Degree**, a Class C Felony, in violation of §265.03(3) of the Penal Law of the State of New York and **Criminal Possession of a Firearm**, a Class E Felony, in violation of §265.01-b(1) of the Penal Law of the State of New York.

Defendant has moved for certain pre-trial relief which the Court, having considered: 1) the defendant's notice of motion and affirmation, submitted by William J. Garvin, Esq. 2) the People's affirmation in response, submitted by Matthew E. Healy, Esq., Senior Assistant District Attorney, Orange County District

Attorney's Office, and 3) the transcript of Grand Jury proceedings, decides as follows.

**MOTION TO INSPECT GRAND JURY MINUTES**

Defendant's motion is granted to the extent that the Court has reviewed the minutes of the Grand Jury *in camera*. The Court finds that release of the minutes is not necessary to the determination of this motion. The Court further 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 FOR DISCOVERY AND INSPECTION**

Defendant's motion is granted to the extent that the information was previously provided or inspection was consented to in the People's Voluntary Disclosure Form and/or Affirmation in Response. In all other respects, defendant's application is denied.

**MOTION FOR BRADY MATERIAL**

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

**DEMAND FOR ROSARIO MATERIAL**

This branch of defendant's motion is granted to the extent that the People are ordered to comply with CPL §240.44 and CPL

[\* 3]  
§240.45.

**MOTION PURSUANT TO GEASLEN**

Defendant's 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.

**MOTION FOR A SANDOVAL AND VENTIMIGLIA HEARING**

Defendant's motion is granted to the extent that a hearing is hereby ordered which will be held 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 will also order a hearing to determine, which, if any, bad acts or convictions may be used as evidence in the People's direct case. The District Attorney is ordered to disclose, in accordance with CPL Section 240.43, any and all acts which he intends to use for purposes of impeaching defendant at trial, as well as any and all acts and/or convictions to be presented as evidence in chief.

**MOTION FOR A BILL OF PARTICULARS**

Defendant's motion is denied as the information provided by the People is sufficient to enable defendant to adequately prepare or conduct a defense. CPL §200.95.

**MOTION TO PRECLUDE**

Defendant's motion to preclude the introduction of any

statements of defendant and/or identification evidence not noticed pursuant to CPL §710.30 is denied with leave to renew at a time when the People seek to use any such evidence.

**MOTION TO SUPPRESS STATEMENTS**

Defendant's motion is granted to the extent that a hearing is hereby ordered on the issue of the voluntariness of any statement made to law enforcement personnel as well as on any issues relating to the legality of defendant's arrest and detention.

**MOTION TO SUPPRESS PHYSICAL EVIDENCE**

Defendant's motion is granted to the extent that a hearing is hereby ordered pursuant to CPL Section 710.60(4) to determine the admissibility of any physical evidence seized from defendant.

**HEARINGS IN ADVANCE OF TRIAL**

Pre-trial hearings will be scheduled and conducted in a manner consistent with the rights of the defendant and in the interests of judicial economy.

**MOTION FOR RESERVATION OF FURTHER MOTIONS**

CPL Section 255.20 provides defendant with the procedure to make further motions. No order of the Court is necessary at this time.


**CONFERENCE/HEARING DATE**

This matter is scheduled for a pre-trial hearing to be held on **June 30, 2016**. All parties are directed to be present.

The foregoing constitutes the Decision and Order of the Court.

Dated: Goshen, New York  
June 24, 2016

E N T E R.



HON. NICHOLAS DE ROSA  
COUNTY COURT JUDGE

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