

People v Fields

2017 NY Slip Op 33107(U)

December 20, 2017

County Court, Westchester County

Docket Number: 17-0893

Judge: Helen M. Blackwood

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COUNTY COURT: STATE OF NEW YORK
COUNTY OF WESTCHESTER

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THE PEOPLE OF THE STATE OF NEW YORK

-against-

FILED

DEC 20 2017

DECISION and ORDER

Indictment No.: 17-0893

JAMIL FIELDS,

TIMOTHY C. IDONI
COUNTY CLERK
COUNTY OF WESTCHESTER

Defendants.

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Defendant, JAMIL FIELDS, is charged by indictment with the crimes of attempted murder in the second degree (PL §110/125.25[01]), assault in the first degree (PL §120.10[1]), criminal possession of a weapon in the second degree (PL §265.03[3]), and criminal possession of a weapon in the third degree (PL §265.02[1]). The defendant has filed a notice of motion, along with a supporting affirmation and memorandum of law seeking omnibus relief. The People have responded by filing an affirmation in opposition and a memorandum of law. Upon consideration of the aforementioned submissions, along with a review of the grand jury minutes and exhibits and the consent discovery order entered in this case, the motion is disposed of as follows:

I. Motion for Discovery and Inspection and Exculpatory Material

The consent discovery order entered in this case indicates that the parties have agreed to enumerated discovery, disclosure, and inspection in accordance with Article 240 of the Criminal Procedure Law. The defendant's motion for discovery is granted to the extent that the People

are ordered to provide him with any material specified in CPL §240.20 that has not already been provided.

With respect to the defendant's demand for exculpatory information, including the disclosure of any deals and/or agreements between the prosecution and any of its witnesses, the People acknowledge their continuing obligations pursuant to Brady v. Maryland, (373 U.S. 83, 83 S.Ct. 1194 [1963]) and Giglio v. United States (405 U.S. 150, 92 S.Ct. 763 [1972]). If a question exists as to the potentially exculpatory nature of a particular item, or if the People are not willing to consent to an item's disclosure, the People are ordered to provide such item to the court forthwith for an *in camera* inspection and determination.

To the extent that the defendant requests material enumerated in CPL §§240.44 and 240.45, such motion is denied at this time. The People recognize their duty to comply with People v. Rosario (9 N.Y.2d 286, 213 N.Y.S.2d 448 [1961]) and are hereby ordered to do so in accordance with the time-frame set forth in the statute.

Any requests made by the defendant with respect to the discovery of items beyond the scope of Article 240 of the Criminal Procedure Law are denied (see, Pirro v. LaCava, 230 A.D.2d 909, 646 N.Y.S.2d 866 [1996]; Matter of Catterson v. Rohl, 202 A.D.2d, 608 N.Y.S.2d 696 [1994]).

II. Motion to Inspect and Dismiss

The People have provided the grand jury minutes to the court and the court has reviewed those minutes *in camera*. After doing so, the court finds that there is no basis to dismiss or reduce any charges of the indictment. Accordingly, the defendant's motion to do so is denied in all respects.

The court finds that the evidence offered to the grand jury was legally sufficient in accordance with section 70.10 of the Criminal Procedure Law. “Legally sufficient evidence means competent evidence, which, if accepted as true, would establish every element of an offense charged and the defendant’s commission thereof,” (CPL §70.10[1]). Moreover, “[c]ourts assessing the sufficiency of the evidence before a grand jury must evaluate ‘whether the evidence, viewed most favorably to the People, if unexplained and uncontradicted-and deferring all questions as to the weight or quality of the evidence-would warrant conviction,’ ” (People v. Mills, 1 N.Y.3d 269, 274–275, 804 N.E.2d 392 [2003], quoting People v. Carroll, 93 N.Y.2d 564, 568, 715 N.E.2d 500 [1999]; see also, People v. Wisey, 133 A.D.3d 799, 21 N.Y.S.3d 111 [2015]). The court finds that the evidence presented to the grand jury, in its entirety, met this burden.

Additionally, the court finds that the grand jury was properly instructed as to the law, that there was nothing defective about the proceedings, (see, People v. Calbud, 49 N.Y.2d 398, 402 N.E.2d 1140 [1980]) and that a quorum was present.

Nor does the court find that the release of the grand jury minutes or any portion thereof to the defendant is necessary since the defendant has not set forth any compelling or particularized need for the production of the grand jury minutes. Therefore, the defendant’s application for the release of said minutes is denied (see, CPL §190.25[4][a]).

III. Motion to Suppress Statements

The defendant moves to suppress his noticed statements on the grounds that they were obtained in violation of his constitutional rights. Specifically, he argues that the statements were made involuntarily as the result of an illegal detention and that he made them without being

given Miranda warnings or waiving them. Finally, he argues that the police continued to question him despite his unequivocal request to have an attorney present during questioning.

The People consent to a hearing and contend that after the hearing, the court will find that the defendant was lawfully arrested, that all of his statement were made spontaneously and after being advised of his Miranda rights, and that his requests for an attorney were equivocal in nature.

The motion is granted to the extent that a Huntley hearing shall be held prior to trial to determine whether the statements allegedly made by the defendant, which have been noticed by the People pursuant to CPL §710.30(1)(a), were made involuntarily within the meaning of CPL §60.45 (see, CPL §710.20[3];CPL §710.60[3][b]; People v. Weaver, 49 N.Y.2d 1012, 406 N.E.2d 1335 [1980]) and whether they were obtained in violation of the defendant's Fourth Amendment rights (see, Dunaway v. New York, 442 U.S. 200, 99 S.Ct. 2248 [1979]) or Sixth Amendment rights (see, People v. Cunningham, 49 N.Y.2d 203, 400 N.E.2d 360 [1980]).

IV. Motion to Suppress Identification Testimony

Attached to the indictment is a notice pursuant to CPL §710.30 indicating that during the trial, the People expect to introduce the testimony of a witness regarding an observation of the defendant and that the witness previously identified the defendant in a police arranged procedure. The defendant argues that the identification evidence should be suppressed because the identification procedure was suggestive in nature.

The People consent to a hearing and argue that at that hearing, the People will demonstrate that the identification procedure was confirmatory in nature. Moreover, they argue

that the procedure was conducted properly and without suggestion and in any event, the witness has an independent basis for identifying the defendant.

The defendant's motion is granted insofar as a hearing shall be held immediately before trial as to whether the identification was, in fact, confirmatory (People v. Rodriguez, 79 N.Y.2d 445, 593 N.E.2d 268 [1992]) or in the alternative, whether any police procedures employed were unduly suggestive, and, if so, whether an independent source exists for an in-court identification by the witness (People v. Pacquette, 17 N.Y.3d 87, 950 N.E.2d 489 [2011]; People v. McLemore, 264 A.D.2d 858, 696 N.Y.S.2d 464 [1999]).

V. Motion to Unseal Search Warrant Affidavits and for Darden Hearing

The defendant moves to unseal the affidavits in support of the search warrants issued in this case, arguing that the defendant is entitled to review them to determine whether there was a sufficient basis to support the warrants. Furthermore, he argues that the court should conduct a Darden with respect to any confidential informants utilized in obtaining the search warrants.

The People have provided each of the affidavits to the court and the court has reviewed them *in camera*. After such review, the court finds that the orders were issued in accordance with section 690 of the Criminal Procedure Law and are supported by probable cause. Therefore, the court finds it unnecessary to unseal the affidavits at this time and the motion to do so is denied, bearing in mind that any so-called Rosario material contained within the affidavits must be turned over to the defendant in accordance with CPL §§240.44 and 240.45. Furthermore, after the *in camera* review, the court finds that there is no need for a Darden hearing, as no confidential informants were utilized in this case.

VI. Motion to Suppress Physical Evidence

The defendant moves to suppress all physical evidence recovered in this case, arguing that the defendant was unlawfully seized and his person and vehicle were unlawfully searched. The People argue that the defendant's motion should be denied because the police possessed the requisite probable cause to arrest and subsequently search the defendant, that he voluntarily gave his cell phone to the police.

The defendant's motion is granted to the extent that a hearing will be held to determine whether the police seized the defendant in violation of his Fourth Amendment rights (see, Dunaway v. New York, 442 U.S. 200, 99 S.Ct. 2248 [1979]) and whether the search and seizure of the defendant's property on his person was lawful (see, Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684 [1961]).

VII. Motion to Suppress Prior Bad Acts

The defendant requests a hearing to determine whether the prosecution should be permitted to use any criminal convictions, or bad acts of the defendant at trial. The defendant's motion is granted to the extent that prior to jury selection, the People are ordered to disclose to the defendant all specific instances of his prior uncharged crimes and bad acts they expect to introduce at trial for impeachment purposes in accordance with CPL §240.43. In response, the defendant must sustain his burden of showing the prior convictions and bad acts which will unduly prejudice him as a witness on his own behalf (People v. Matthews, 68 N.Y.2d 118, 497 N.E.2d 287 [1986]). In the event that the People seek to use any such conduct in their direct case against the defendant, they are ordered to request a hearing to determine the admissibility of such evidence pursuant to People v. Ventimiglia, 52 N.Y.2d 350, 420 N.E.2d 59 (1981).

VIII. Motion to Strike Prejudicial Language

The defendant moves to dismiss certain language from the indictment. Specifically, the defendant argues that the language, “. . . and against the peace and dignity of the People of the State of New York” should be stricken because it is irrelevant and potentially prejudicial.


The defendant’s motion is denied, as the language he is seeking to strike “merely identified the defendant’s acts as public, rather than private, wrongs,” (People v. Gill, 164 A.D.2d 867, 867, 559 N.Y.S.2d 376 [1990]).

IX. Motion to Strike Alibi Demand

The defendant’s motion to strike the alibi notice is denied. It is well settled that the requirements of CPL §250.20 are constitutional (see, People v. Dawson, 185 A.D.2d 854, 587 N.Y.S.2d 358 [1992]; Gill, 164 A.D.2d at 867; People v. Peterson, 96 A.D.2d 871, 465 N.Y.S.2d 743 [1983]).

The foregoing constitutes the opinion, decision, and order of this court.

Dated: White Plains, New York
December 20, 2017



HON. HELEN M. BLACKWOOD
Westchester County Court

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