

People v Castro
2017 NY Slip Op 33208(U)
July 10, 2017
County Court, Orange County
Docket Number: 2600/17
Judge: Nicholas DeRosa
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COUNTY COURT : ORANGE COUNTY
STATE OF NEW YORK

ORIGINAL

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THE PEOPLE OF THE STATE OF NEW YORK,

IND. NO. 2017-257
(Superceding Ind. #2016-624)
INDEX NO. 2600/17

-against-

TYLER CASTRO,

DECISION AND ORDER

Defendant.

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DE ROSA, N.

Defendant is charged in this indictment with the crimes of **Murder in the Second Degree**, a Class A Felony, in violation of §125.25(1); **Manslaughter in the First Degree**, a Class B Felony, in violation of §125.20(1); **Criminal Possession of a Weapon in the Second Degree** (2 counts), Class C Felonies, in violation of §265.03(1)(b) and (3); **Criminal Possession of a Weapon in the Third Degree**, a Class D Felony, in violation of §265.02(1) 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 Eric S. Shiller, Esq. 2) the People's affirmation in response, submitted by Lorri B. Goldberg, 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.

MOTION TO SUPPRESS STATEMENTS

Defendant moves to suppress statements made by defendant to City of Newburgh Detectives as contained in a video turned over by the People. The People have represented that they do not intend to use these statements as the defendant invoked his right

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to counsel.

Defendant testified in the grand jury under a waiver of immunity with respect to the first indictment which has now been superceded. The People intend on using these statements for cross examination purposes should defendant testify at trial.

Based upon the foregoing, defendant's motion to suppress the foregoing statements or a hearing is denied without prejudice to renew.

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.

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 FRYE HEARING

Defendant's request for a hearing to determine the admissibility of DNA evidence, pursuant to Frye v. U.S., 293 F 1013, is denied. Such evidence has been found to be generally accepted as reliable by the relevant scientific community. Accordingly, a hearing on this issue is no longer required. See People v. Wesley, 83 NY2d 417 (1994) and People v. LeGrand, 8 NY3d 449 (2007).

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 July 12, 2017. All parties are directed to be present.

The foregoing constitutes the Decision and Order of the Court.

Dated: Goshen, New York
July 16, 2017

E N T E R.



HON. NICHOLAS DE ROSA
COUNTY COURT JUDGE

TO: DAVID M. HOOVLER, ESQ.
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