

People v Ward

2017 NY Slip Op 33271(U)

August 15, 2017

County Court, Orange County

Docket Number: 3866-2017

Judge: Craig Stephen Brown

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This opinion is uncorrected and not selected for official publication.

 ORIGINAL

STATE OF NEW YORK
COUNTY COURT : ORANGE COUNTY

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PEOPLE OF THE STATE OF NEW YORK,

,DECISION & ORDER

-against-

Ind. No. 2017-325
Index No. 3866-2017

JMIN WARD,

Defendant.

-----X
CRAIG STEPHEN BROWN, J.C.C.

Defendant JMIN WARD moves for the following relief:

1. For an order granting discovery of all Brady material;
2. For an order precluding the District Attorney from introducing at trial any evidence of the defendant's prior convictions or bad acts pursuant to People v. Sandoval, 34 NY2d 371 and its progeny and People v. Ventimiglia, 52 NY2d 350;
3. For an order to controvert search warrant pursuant to CPL Article 710;
4. For an order granting to the defendant the request for a Bill of Particulars;
5. For an order granting to the defendant the request for discovery;
6. For an order precluding the use of any statements allegedly made by the defendant;
7. For an order directing that all pretrial hearings be conducted a minimum of twenty days prior to commencement of trial.

The following papers were read:

Notice of Motion - Affidavit of Joseph B. Brown, Esq. - Affidavit of Service	1 - 3
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Supplemental Affirmation of Edward C. Bruno, Esq. - Second Supplemental Affirmation of Edward C. Bruno, Esq.	4 - 5
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Matthew E. Healy, Esq.'s Affirmation in Response - 6 - 7
Affidavit of Service

Indictment - Grand Jury Minutes - Voluntary Disclosure Form - 8 - 12
Search Warrant Application - Search Warrant - Search Warrant
Return

Upon the foregoing papers it is hereby ORDERED that the defendant's motion is decided
as follows:

MOTION PURSUANT TO *BRADY V. MARYLAND*

Defendant's motion is granted to the extent that it is hereby ordered that the District
Attorney provide defendant with any and all documents and materials as required under *Brady v.*
Maryland.

MOTION FOR A *SANDOVAL* HEARING

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 provide defendant's attorney with a true copy of defendant's DCJS Summary
Case History and to disclose to defendant's attorney any and all acts about which it intends to use
as impeachment. The above information must be provided to defendant's attorney at least three
days, excluding Saturdays, Sundays and holidays, prior to the commencement of jury selection.

MOTION PURSUANT TO *VENTIMIGLIA*

Defendant's motion for relief pursuant to *People v Ventimiglia*, 52 NY2d 350, is denied
with leave to renew in the event that the District Attorney seeks to introduce evidence at trial of
defendant's prior bad acts or convictions.

MOTION PURSUANT TO *GEASLEN*

Granted to the extent that the District Attorney is ordered to provide to defendant's attorney, within ten (10) days from the date of this Order, any information required to be disclosed pursuant to *People v. Geaslen*.

MOTION TO SUPPRESS EVIDENCE SEIZED PURSUANT TO SEARCH WARRANT

The Court has reviewed the application for the issuance of the search warrant and finds that the search warrant was based upon probable cause and that the reliability of the confidential informant has been established. However, a hearing, as consented to by the People, must be held with respect to the listing of the Orange County Sheriff's Office Special Operations Group ("SOG") on the search warrant. SOG apparently includes both police officers and corrections officers. While the People contend that the listing of the SOG was a ministerial error, the defendant is entitled to a hearing with respect to the listing of the SOG on the search warrant and SOG's role, if any, in the execution of warrant.

MOTION FOR *DARDEN* HEARING

Defendant's motion for a *Darden* hearing is denied. A *Darden* hearing is not necessary "because probable cause for the search warrant was established through independent police observations" and other evidence (*People v. Crooks*, 27 NY3d 609 [2016]).

MOTION FOR A BILL OF PARTICULARS (Schedule A)

The request for information as set forth in paragraphs numbered "1", "2", "3" and "4" in the defendant's Schedule A is denied on the basis that it was previously provided in the Voluntary Disclosure Form.

[* 4]

MOTION FOR DISCOVERY AND INSPECTION (Schedule B)

The defendant's application for discovery and inspection is granted to the extent that the People are directed to provide, within ten (10) days of the date of this Order, the information sought in paragraphs numbered "4", "10", "12" (photos and drawings), "16", "17" (reports), and "41" of defendant's Schedule B.

The request for information set forth in paragraph numbered "2" of defendant's Schedule B is denied on the basis that it was previously provided in the Voluntary Disclosure Form.

The request for information sought in accordance with CPL §240.20(1)(h) is denied based upon the District Attorney's representation that no such information is presently known. However, the People are reminded of their continuing obligation pursuant CPL §240.60 to disclose such information.

All other discovery requests are 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 statements allegedly made by the defendant.

HEARINGS IN ADVANCE OF TRIAL

The defendant's motion for the scheduling of pre-trial hearings a minimum number of days prior to trial is denied with leave to renew.

ADJOURNED DATE

This matter is scheduled for a conference to be held on August 17, 2017, at 9:15 A.M. The defendant, the defendant's counsel, and assistant District Attorney are directed to be present.

[* 5]

The aforesaid constitutes the Decision and Order of the Court.

Dated: August 15, 2017
Goshen, New York

ENTER


HON. CRAIG STEPHEN BROWN
COUNTY COURT JUDGE

TO: EDWARD C. BRUNO, ESQ., P.C.
Attorney for Defendant
P.O. Box 987, 15 Bruyn Avenue
Pine Bush, New York 12566

ORANGE COUNTY DISTRICT ATTORNEY
Attorney for the People
40 Matthews Street
Goshen, New York 10924