

People v Laguerre

2018 NY Slip Op 33619(U)

March 19, 2018

County Court, Rockland County

Docket Number: 2017-316

Judge: David S. Zuckerman

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COUNTY COURT: STATE OF NEW YORK
COUNTY OF ROCKLAND

FILED SL

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**ROCKLAND COUNTY
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DECISION & ORDER**

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THE PEOPLE OF THE STATE OF NEW YORK

-against-



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Rockland County, NY
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PETER LAGUERRE,

Ind. No.: 2017-316

ZUCKERMAN, J.

CO-2017-001521

Defendant stands accused under Indictment No. 2017-316 of one count of Murder in the Second Degree (Penal Law §125.25[1]). As set forth the Indictment, it is alleged that, on or about July 21, 2017, the defendant, in Rockland County, with intent to cause the death of another, caused that person's death. By Notice of Motion dated February 16, 2018, with accompanying Affirmation, Defendant moves for omnibus relief. In response, the People have submitted and Affirmation in Opposition dated February 22, 2017, and Defendant has submitted a Reply thereto on March 5, 2018.

The motion is disposed of as follows:

I. II, MOTION FOR DISCOVERY AND INSPECTION
VIII, IX.

Defendant's motion for discovery is granted to the extent provided for in Criminal Procedure Law Article 240. If any items set forth in CPL Article 240 have not been provided to the Defendant pursuant to the consent discovery order in the instant matter, said items are to be provided forthwith.

The People are reminded of their continuing duty to disclose

exculpatory material (see *Brady v Maryland*, 373 U.S. 83 [1963] and *Giglio v United States*, 405 U.S. 150 [1971]) at the earliest possible date. If the People are or become aware of any material which is arguably exculpatory but they are not willing to consent to its disclosure, they are directed to disclose such material to the Court for its in camera inspection and determination as to whether such will be disclosed to the Defendant.

To any further extent, the application is denied as seeking material or information beyond the scope of discovery (see *People v Colavito*, 87 NY2d 423 [1996]; *Matter of Catterson v. Jones*, 229 AD2d 435 [2nd Dept 1996]; *Matter of Catterson v Rohl*, 202 AD2d 420 [2nd Dept 1994]; *Matter of Brown v Appelman*, 241 AD2d 279 [2nd Dept 1998]).

**III, IV. MOTION TO INSPECT THE GRAND JURY MINUTES
AND TO DISMISS AND/OR REDUCE THE INDICTMENT**

Defendant moves pursuant to CPL §§210.20(1)(b) and (c) to dismiss the indictment, or counts thereof, on the grounds that the evidence before the Grand Jury was legally insufficient and that the Grand Jury proceeding was defective within the meaning of CPL §210.35. On consent of the People, the Court has reviewed the minutes of the proceedings before the Grand Jury.

Pursuant to CPL §190.65(1), an indictment must be supported by legally sufficient evidence which establishes that the defendant committed the offenses charged. Legally sufficient evidence is competent evidence which, if accepted as true, would establish each and every element of the offense charged and the defendant's

commission thereof (CPL §70.10[1]); *People v Jennings*, 69 NY2d 103 [1986]). "In the context of a grand jury proceeding, legal sufficiency means prima facie proof of the crimes charged, not proof beyond a reasonable doubt." *People v Bello*, 92 NY2d 523 (1998); *People v Ackies*, 79 AD3d 1050 (2nd Dept 2010). In rendering a determination, "[t]he reviewing court's inquiry is limited to whether the facts, if proven, and the inferences that logically flow from those facts supply proof of each element of the charged crimes and whether the grand jury could rationally have drawn the inference of guilt." *Bello, supra*, quoting *People v Boampong*, 57 AD3d 794 (2nd Dept 2008-- internal quotations omitted).

A review of the minutes reveals that the evidence presented, if accepted as true, would be legally sufficient to establish every element of the offenses charged (see CPL §210.30[2]). Accordingly, Defendant's motion to dismiss or reduce for lack of sufficient evidence is denied.

With respect to Defendant's claim that the Grand Jury proceeding was defective within the meaning of CPL §210.35, a review of the minutes supports a finding that a quorum of the grand jurors was present during the presentation of evidence and at the time the district attorney instructed the Grand Jury on the law, that the grand jurors who voted to indict heard all the "essential and critical evidence" (see *People v Collier*, 72 NY2d 298 [1988]; *People v Julius*, 300 AD2d 167 [1st Dept 2002], *lv den* 99 NY2d 655 [2003]), and that the Grand Jury was properly instructed (see

People v Calbud, 49 NY2d 389 [1980] and *People v. Valles*, 62 NY2d 36 [1984]).

In making this determination, the Court does not find that release of the Grand Jury minutes or certain portions thereof to the parties was necessary to assist the Court.

V. MOTION TO SUPPRESS PHYSICAL EVIDENCE/FOR A MAPP HEARING

Defendant moves to suppress testimony regarding clothing seized from him. The People, in their Affirmation in Opposition, state that there was no impropriety in the police search and seizure of clothing which occurred in this matter. While not explicitly denominated in his Notice of Motion as a motion to controvert a search warrant, Defendant moves to suppress the physical evidence recovered pursuant to its execution. With respect to the physical evidence recovered pursuant to execution of that search warrant, the results of a search conducted pursuant to a facially sufficient search warrant are not subject to a suppression hearing. *People v Arnau*, 58 NY2d 27 (1982). In any event, the Court has reviewed the Affidavit in support of the search warrant and finds it provided the issuing magistrate with ample probable cause to support issuance thereof. Further, this court reviewed the search order and finds it to be proper in all respects. To the extent Defendant herein seeks to challenge whether the items recovered pursuant to the search order are beyond the scope of said warrant, it is directed that, immediately prior to trial, a hearing shall be conducted limited to this allegation.

[*5]

This court notes that according to the Voluntary Disclosure Form and People's Affirmations filed in this case, the People have provided defense counsel with access to the search warrant and supporting affidavit.

VI. MOTION TO SUPPRESS STATEMENT EVIDENCE/FOR A HUNTLEY HEARING

Defendant moves to suppress testimony regarding statements taken from him, in particular alleging that the statements were the product of an unlawful arrest. The People, in their Affirmation in Opposition, state that there was no impropriety in the police questioning which occurred in this matter, and that the arrest of the Defendant was lawful. The motion for suppression is thus granted, to the extent that a pre-trial *Huntley* hearing is ordered.

VII. MOTION TO PRECLUDE UNNOTICED STATEMENTS

Defendant moves to preclude unnoticed statements. The People, in their Affirmation in Opposition, state that there were no unnoticed statements which they seek to introduce. Consequently, the motion insofar as it seeks preclusion is denied.

X. MOTION FOR SANDOVAL/VENTIMIGLIA/MOLINEUX HEARING

1. *Sandoval* - Granted, solely to the extent that a *Sandoval* hearing shall be held immediately prior to trial at which time:

A. The People must notify the Defendant of all specific instances of the Defendant's prior uncharged criminal, vicious or immoral conduct of which the People have knowledge and which the

People intend to use at trial for purposes of impeaching the credibility of the Defendant (see, CPL §240.43); and

B. Defendant must then sustain his burden of informing the Court of the prior misconduct which might unfairly affect him as a witness in his own behalf (see, *People v Malphurs*, 111 A.D.2d 266 [2nd Dept. 1985]).

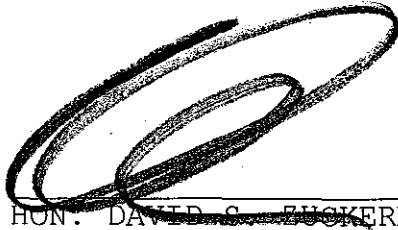
2. *Ventimiglia/Molineux* - Upon the consent of the People, in the event that the People determine that they will seek to introduce evidence at trial of any prior bad acts of the Defendant, including acts sought in their case in chief, they shall so notify the Court and defense counsel and a *Ventimiglia/Molineux* hearing (see *People v Ventimiglia*, 52 NY2d 350 [1981]; *People v Molineux*, 168 NY 264 [1901]) shall be held immediately prior to trial to determine whether or not any evidence of uncharged crimes may be used by the People, including to prove their case in chief. The People are urged to make an appropriate decision in this regard sufficiently in advance of trial to allow any *Ventimiglia/Molineux* hearing to be consolidated and held with the other hearings herein.

XI. RESERVATION OF RIGHT TO FILE FUTURE MOTIONS

Denied. Any future motions must set forth reasons as to why said motion was not brought in conformity with CPL §255.20.

The foregoing constitutes the Decision and Order of the Court.

Dated: New City, New York
March 19, 2018



HON. DAVID S. ZUCKERMAN, J.C.C.

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