

People v Steele
2018 NY Slip Op 34044(U)
May 10, 2018
County Court, Orange County
Docket Number: 2017-847
Judge: William L. DeProspo
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COUNTY COURT: ORANGE COUNTY
STATE OF NEW YORK

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THE PEOPLE OF THE STATE OF NEW YORK,

IND. NO. 2017-847

-against-

DECISION AND ORDER

STEVEN STEELE and ERIN KEPPEL,

Defendants.

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DePROSPO, W.

INDEX # S: 0073-2018 (STEELE)
0074-2018 (KEPPEL)

Defendants are charged in this indictment with the crimes of **ROBBERY IN THE THIRD DEGREE**, a class D felony, in violation of section 160.05 of the Penal Law of the State of New York; **CRIMINAL POSSESSION OF STOLEN PROPERTY IN THE THIRD DEGREE**, a class D felony, in violation of section 165.50 of the Penal Law of the State of New York; **CRIMINAL POSSESSION OF STOLEN PROPERTY IN THE FOURTH DEGREE**, a class E felony, in violation of section 165.45(5) of the Penal Law of the State of New York; **TAMPERING WITH PHYSICAL EVIDENCE**, a class E felony in violation of section 215.40(2) of the Penal Law of the State of New York; and **PETIT LARCENY**, a class A misdemeanor, in violation of section 155.25 of the Penal Law of the State of New York.

Defendants have moved for certain pre-trial relief. The Court, having considered the following papers:

-Defendant Steele's notice of motion and affirmation, submitted by Gregory G. Hoover, Esq.;

-Defendant Keppel's notice of motion and affirmation, submitted by Paul N. Weber, Esq.;

[* 2]
-People's affirmation in response, submitted by Eric D. Parker,
Esq., Assistant District Attorney, Orange County District
Attorney's Office;

-Grand Jury Minutes-Indictment-Voluntary Disclosure Form;

It is hereby ORDERED that the defendants' motions are decided in the following
manner:

MOTION TO INSPECT GRAND JURY MINUTES

Defendants' motions are 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

Defendants' motions are 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, defendants' applications are denied.

MOTION FOR A BILL OF PARTICULARS

A bill of particulars is not a discovery device, it serves to clarify the pleading. *People v. Davis*, 41 N.Y.2d 678 (1977). Defendants' motions are denied as the information provided by the People is sufficient to enable defendant to adequately prepare or conduct a defense. CPL §220.95.

DEFENDANT STEELE'S MOTION TO DISMISS FOR LACK OF SPECIFICITY

Defendant Steele further moves to dismiss the present Indictment, arguing that the People

[* 3]
failed to allege temporal specificity sufficient to afford the defendant notice to adequately prepare a defense. The People oppose the motion, asserting that the defendant was provided with the date, time and place of the alleged crimes.

CPL § 200.50(6) requires that an indictment contain an allegation “that the offense charged therein was committed on, or on or about, a designated date, or during a designated period of time.” Here, the Indictment alleges that the defendant committed the crimes alleged “on or about the 24th day of November, 2017.” There is no vagueness or lack of specificity with regard to these allegations. The defendant’s motion is therefore denied.

MOTION TO SUPPRESS STATEMENTS

Defendants’ motions are granted to the extent that a hearing is hereby ordered on the issue of the voluntariness of the statements made to law enforcement personnel.

To the extent that the defendants’ motions can be interpreted to raise issues relative to their arrest and/or detention, they have not submitted any sworn allegations of fact supporting this branch of the motion. *CPL Section 710.60; People v. Jones*, 95 N.Y.2d 721 (2001); *People v. Mendoza*, 82 NY2d 415 (1993).

MOTION TO SUPPRESS IDENTIFICATION

Defendant Keppel moves to suppress any identification procedure used in this case. The People assert that there was no police arranged identification procedure. Therefore, this branch of defendant Keppel’s motion is denied.

MOTION FOR PRIOR STATEMENTS OF WITNESSES

Defendant Keppel’s motion for prior witness statements is denied at this time as premature. *CPL § 240.20*.

SANDERS MOTION

Defendant Steele's motion is granted to the extent that 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 A SANDOVAL HEARING

Defendants' motions are 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 any of the defendants elects to testify at trial. The District Attorney is further ordered to disclose, in accordance with CPL Section 240.43, any and all acts which he intends to use for purposes of impeaching defendants at trial.

MOTION FOR BRADY MATERIAL

Defendants' motions are granted to the extent that the District Attorney is directed to disclose to defendants any and all documents, materials and/or information, if any, required to be disclosed pursuant to *Brady v. Maryland*, 83 S.Ct. 1194 (1963).

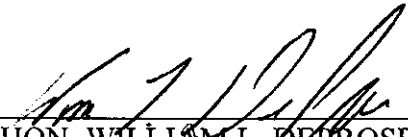
RESERVATION OF RIGHTS

The defendants' reservation of a right to make further motions is denied and any future motions shall be summarily denied absent the requisite showing pursuant to *CPL § 255.20(3)*.

The above constitutes the Decision and Order of the Court.

Dated: Goshen, New York
May 10, 2018

ENTER



HON. WILLIAM L. DEPROSPO
COUNTY COURT JUDGE

TO: DAVID M HOOVLER.
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