

People v Wilkins

2018 NY Slip Op 34049(U)

April 12, 2018

County Court, Orange County

Docket Number: 2018-055

Judge: William L. DeProspero

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This opinion is uncorrected and not selected for official publication.

COUNTY COURT: ORANGE COUNTY
STATE OF NEW YORK

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THE PEOPLE OF THE STATE OF NEW YORK,

-against-

IND. NO. 2018-055

INDDA # 1117 - 2018

DECISION AND ORDER

NEAL WILKINS,

Defendant.

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DePROSPO, W.

Defendant is charged in this indictment with the crimes of **ASSAULT IN THE SECOND DEGREE**, a class D felony, in violation of section 120.05, subdivision 2 of the Penal Law of the State of New York; **CRIMINAL POSSESSION OF A WEAPON IN THE FOURTH DEGREE**, a class A misdemeanor, in violation of section 265.01, subdivision 2 of the Penal Law of the State of New York; and **CRIMINAL TRESPASS IN THE SECOND DEGREE**, a class A misdemeanor, in violation of section 140.15, subdivision 2, of the Penal Law of the State of New York.

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

-Defendant's notice of motion and affirmation, submitted by John Ingrassia, Esq.;

-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 defendant's motion is decided in the following manner:

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). Defendant's motion is denied as the information provided by the People is sufficient to enable defendant to adequately prepare or conduct a defense. *CPL* §220.95.

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*, 83 S.Ct. 1194 (1963).

MOTION TO SUPPRESS STATEMENTS

Defendant's motion is granted to the extent that a hearing is hereby ordered on the issue of the voluntariness of any statement made to law enforcement personnel.

To the extent that the defendant's motion can be interpreted to raise issues relative to his arrest and/or detention, defendant has 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).

MOTION TO SUPPRESS IDENTIFICATION

Defendant's motion is granted to the extent that a hearing is hereby ordered pursuant to

CPL 710.60(4) to determine the admissibility of any identification evidence.

MOTION PURSUANT TO GEASLEN

As the People assert they are unaware of any evidence constituting *Gleasen* material, Defendant's motion is granted to the extent that the District Attorney is reminded of their ongoing obligations and ordered to provide to defendant's attorney, any information required to be disclosed pursuant to *People v. Geaslen*, 54 N.Y.2d 510 (1981).

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.

RESERVATION OF RIGHTS

The defendant's reservation of his 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)*.

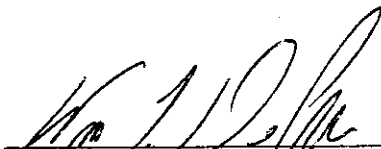
CONFERENCE/HEARING DATE

This case is scheduled for conference on **April 25, 2018 at 9:30 a.m.** All parties are directed to appear.

The above constitutes the Decision and Order of the Court.

Dated: Goshen, New York
April 12, 2018

ENTER



HON. WILLIAM L. DÉPROSPO
COUNTY COURT JUDGE

TO: DAVID M HOOVLER.
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