

People v Brown

2018 NY Slip Op 34052(U)

April 2, 2018

County Court, Orange County

Docket Number: 2017-885

Judge: Craig Stephen Brown

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This opinion is uncorrected and not selected for official publication.

STATE OF NEW YORK
COUNTY COURT : ORANGE COUNTY

 ORIGINAL

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PEOPLE OF THE STATE OF NEW YORK,

DECISION & ORDER

-against-

Ind No. 2017-885
Index #0079/2018

JAMES BROWN,

Defendant.

-----x
CRAIG STEPHEN BROWN, Judge.

Defendant James Brown moves for an order granting the following relief:

1. Preclusion of the use of any of the defendant's prior criminal criminal history, or prior uncharged, vicious, or immoral conduct, for impeachment purposes at trial, or if denied, a hearing on the admissibility of such evidence.
2. The production of favorable or exculpatory material, pursuant to *Brady v. Maryland*, 373 U.S.83 (1963).
3. Preclusion of any improperly noticed statements or identifications.
4. Inspection of the Grand Jury minutes of the Indictment and for dismissal of the indictment for legal insufficiency of the evidence and/or defects in the proceedings of the Grand Jury, or if denied, reduction of the charges should the Court deem appropriate.
5. Demand that the People takes all steps to preserve all evidence in this matter both for inspection by the defense and possible use at trial, specifically including but not limited to: 911 calls and other police communications, narcotics and their packaging, and all

Rosario material.

- 6. Preclusion of any and all evidence illegally obtained.
- 7. Suppression of properly noticed identification testimony.
- 8. Discovery pursuant to CPL 240.20.
- 9. Reservation of rights to make additional motions as they become apparent and necessary.

The following papers were read:

Notice of Motion - Affirmation of Randy I. Siper, Esq. - Affirmation of Service	1 - 3
Michael K. Purcell, Esq.'s Affirmation in Opposition - Affidavit of Service	4 - 5
Grand Jury Minutes - Indictment - Voluntary Disclosure Form	6 - 7

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

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 *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*. In addition, please see the "Order to Counsel in Criminal Cases" dated March 28, 2018, issued by this Court.

**MOTION FOR PRECLUSION OF STATEMENTS AND
IDENTIFICATION TESTIMONY PURSUANT TO CPL SECTION 710.30(3)**

The defendant's motion for preclusion is denied with leave to renew.

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.

**MOTION TO INSPECT GRAND JURY MINUTES
AND DISMISS INDICTMENT**

The motion is granted to the extent that the Court has reviewed the minutes of the Grand Jury and finds that the Indictment is based upon legally sufficient evidence and that the Grand Jury was properly instructed with respect to the applicable law.

***ROSARIO* MATERIAL**

The defendant's motion for *Rosario* material and the preservation thereof is denied as premature. The District Attorney is bound by obligations set forth in *People v. Rosario*, 9 NY2d 286, CPL Section 240.44, and CPL Section 240.45. In the event that the District Attorney fails to comply with said obligations, the defendant has available remedies.

[* 4]

MOTION TO SUPPRESS IDENTIFICATION EVIDENCE

The motion is denied as moot in that it appears that no identification procedures were noticed by the People.

MOTION FOR LEAVE TO FILE ADDITIONAL MOTIONS

Defendant's motion for leave to file additional motions is granted only to the extent set forth in CPL §255.20(3).

ADJOURNED DATE

This matter is scheduled for a conference to be held on April 3, 2018 at 9:15 A.M. The defendant, the defendant's counsel, and District Attorney are directed to be present.

The aforesaid constitutes the Decision and Order of the Court.

Dated: April 2, 2018
Goshen, New York

ENTER



HON. CRAIG STEPHEN BROWN
COUNTY COURT JUDGE

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