

People v Dolson

2018 NY Slip Op 34053(U)

May 15, 2018

County Court, Orange County

Docket Number: 2017-892

Judge: Craig Stephen Brown

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STATE OF NEW YORK
COUNTY COURT : ORANGE COUNTY

-----X
PEOPLE OF THE STATE OF NEW YORK,

DECISION & ORDER

-against-

Ind. No. 2017-892
Index No. 78-2018

ISAYA DOLSON,

Defendant.

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

Defendant Isaya Dolson moves for an order granting the following relief:

1. Dismissal of the indictment pursuant to CPL Article 210 on the grounds that the evidence before the Grand Jury was insufficient and that the prosecution did not properly instruct the Grand Jury as to the law; or, if the Court does not dismiss after determining the evidence is insufficient, reducing the charges in the indictment to any lesser included offense(s) that is supported by the evidence, and, pursuant to CPL Section 210.30[3], disclosure to the defense of the Grand Jury minutes so that counsel can assist the Court in its determination of this motion.
2. Suppressing from use at trial pursuant to Article 710 of the CPL evidence consisting of:
 - (a) A record of potential testimony describing or reciting a statement of the defendant involuntarily made within the meaning of CPL Section 60.45.
 - (b) Potential testimony regarding an observation of the defendant at

[* 2]

the time or place of the commission of the offense or upon some other occasion relevant to the case, which potential testimony would not be admissible upon the prospective trial of such charge owing to an improperly made previous identification of the defendant by the prospective trial.

3. Prohibiting the prosecution from questioning the defendant regarding any prior commission of criminal, vicious, or immoral acts which it may use to impeach the defendant on cross-examination at trial and, pursuant to CPL Section 240.43, directing the District Attorney to disclose to counsel any prior uncharged act which the prosecution intends to use at trial to impeach defendant on cross-examination.
4. Directing that counsel be provided with all *Brady* material in the possession of the District Attorney that would tend in any way to exculpate the defendant, or lead this Court to suppress before trial any evidence the prosecution intends to offer at trial, or impeach the testimony of any prosecution witness.

The following papers were read:

Notice of Motion - Affirmation of Michael E. Davis, Esq. - Affidavit of Service	1 - 3
Kerry M. Kolek, Esq.'s Affirmation in Response - Annexed Documents - Affidavits of Service	4 - 6
Grand Jury Minutes - Indictment - Voluntary Disclosure Form	7 - 9

[* 3]

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

MOTION TO INSPECT GRAND JURY MINUTES

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.

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 SUPPRESS IDENTIFICATION TESTIMONY

The 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 TO SUPPRESS PHYSICAL EVIDENCE

The motion is granted to the extent that a hearing is hereby ordered pursuant to CPL §710.60(4) to determine the admissibility of physical evidence allegedly obtained from the defendant.

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.

BRADY MATERIAL

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*.

ADJOURNED DATE

This matter is scheduled for a conference on May 24, 2018 at 2:00 P.M. The defendant, defendant's counsel, and District Attorney are directed to be present.

The aforesaid constitutes the Decision and Order of the Court.

Dated: May 15, 2018
Goshen, New York

ENTER



HON. CRAIG STEPHEN BROWN
COUNTY COURT JUDGE

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