

**People v Veguilla**

2022 NY Slip Op 34783(U)

May 17, 2022

County Court, Westchester County

Docket Number: Indictment No. 22-70377

Judge: Anne E. Minihan

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This opinion is uncorrected and not selected for official publication.

COUNTY COURT: STATE OF NEW YORK  
COUNTY OF WESTCHESTER

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

-against-

WANDA VEGUILLA

Defendant.

-----X  
MINIHAN, J.

FILED  
AND ENTERED  
ON 5-17 2022  
WESTCHESTER  
COUNTY CLERK

FILED  
MAY 19 2022  
TIMOTHY C. IDONI  
COUNTY CLERK  
COUNTY OF WESTCHESTER

DECISION & ORDER  
Indictment No. 22-70377

Defendant, Wanda Veguilla, is charged by Westchester County Indictment Number 22-70377 with Murder in the Second Degree (Penal Law § 125.25[1]) and is charged together with codefendant John Torres with Tampering with Physical Evidence (Penal Law § 215.40[2]).

The indictment charges codefendant John Torres, individually, with Criminal Facilitation in the Second Degree (Penal Law § 115.05) and Hindering Prosecution in the First Degree (Penal Law § 205.65).

Defendant has filed an omnibus motion consisting of a Notice of Motion, an Affirmation in Support, and two attached exhibits.<sup>1</sup> In response, the People filed an Affirmation in Opposition together with a Memorandum of Law.

I.

MOTION for a BILL OF PARTICULARS

Defendant’s request for a bill of particulars is denied as untimely (CPL 200.95). Moreover, in accordance with CPL Article 245, defendant has a large amount of discovery which will allow her to prepare and conduct a defense. This case involved the execution of one or more search warrants which contain affidavit(s) detailing the facts of the case. Additionally, defendant is entitled to and has, or will have, a copy of the Grand Jury minutes and exhibits. The People have also provided specific facts of the case in their Affirmation in Opposition. As such, defendant’s motion for a bill of particulars is denied.

II.

MOTION for DISCOVERY, DISCLOSURE, and INSPECTION  
CPL ARTICLE 245

To whatever extent material that is discoverable under CPL Article 245 has not already been provided to the defense by the People, the defendant’s motion is granted and such discovery, including both *Brady* material<sup>2</sup> and *Rosario* material, shall be provided forthwith. The People have sought, and

<sup>1</sup> The first exhibit is a request for a Bill of Particulars and the second is a Demand to Produce pursuant to Article 240 of the CPL which was repealed as of January 1, 2020. The discovery statute is now contained in Article 245 of the CPL.

<sup>2</sup> The People have a continuing duty to disclose exculpatory material (*Brady v Maryland*, 373 US 83 [1963]; see *Giglio v United States*, 405 US 413 [1971]). If the People are or become aware of any such material which is arguably subject to

this Court has signed a protective order in this matter (CPL Article 245) which must be complied with as it relates to discovery. If the defense has a particularized reason to believe that there remains outstanding discovery with which counsel has not been provided, counsel is directed to contact the assigned Assistant District Attorney upon receipt of this order. If the issue remains unresolved within four days of receipt of this order, counsel for defendant shall contact the court to request an immediate compliance conference.

If the People have fulfilled their discovery obligations but have not yet filed a Certificate of Compliance, they are directed to do so forthwith and they are reminded of their continuing obligation to remain in compliance with the discovery mandates set forth in CPL Article 245 and to file supplemental Certificates of Compliance as the need arises.

The People must disclose the terms of any deal or agreement made between the People and any prosecution witness at the earliest possible date (*see People v Steadman*, 82 NY2d 1 [1993]; *Giglio v United States*, 405 US 150 [1972]; *Brady v Maryland*, 373 US 83 [1963]; *People v Wooley*, 200 AD2d 644 [2d Dept 1994]).

III.

MOTION to SUPPRESS NOTICED STATEMENTS

The People, pursuant to CPL 710.30(1)(a), noticed five statements allegedly made by defendant to members of the City of Yonkers Police Department. Defendant moves to suppress these statements as involuntary, the product of an unlawful arrest, made without *Miranda* warnings, and in violation of defendant's right to counsel. Defendant's motion to suppress is granted to the extent that a pre-trial *Huntley* hearing shall be held, on consent of the People, to determine whether the alleged statements were involuntarily made within the meaning of CPL 60.45 (*see* CPL 710.20[3]; CPL 710.60[3][b]; *People v Weaver*, 49 NY2d 1012 [1980]). The hearing will also address whether the alleged statements were obtained in violation of defendant's Fourth Amendment rights (*see Dunaway v New York*, 442 US 200 [1979]), or her Sixth Amendment right to counsel.

IV.

MOTION to PRECLUDE IDENTIFICATION TESTIMONY

Defendant's motion to suppress identification testimony is denied as moot or premature since the People have not filed any identification notices for defendant pursuant to CPL 710.30(1)(b).

V.

MOTION to INSPECT, DISMISS, and/or REDUCE  
CPL ARTICLE 190

Defendant moves pursuant to CPL 210.20 to dismiss the indictment, or reduce the counts charged against her, on the grounds that the evidence before the Grand Jury was legally insufficient, and

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disclosure under *Brady* and its progeny and CPL Article 245 which they are unwilling to consent to disclose, they are directed to bring it to the immediate attention of the court and to submit it for an in-camera inspection by the court and determination as to whether it constitutes *Brady* material discoverable by defendant.

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.

The court denies defendant's motion to dismiss or reduce the counts in the indictment for legally insufficient evidence because 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]). Pursuant to CPL 190.65(1), an indictment must be supported by legally sufficient evidence which establishes that the defendant committed the offenses charged. "Courts assessing the sufficiency of the evidence before a grand jury must evaluate whether the evidence, viewed most favorably to the People, if unexplained and uncontradicted--and deferring all questions as to the weight or quality of the evidence--would warrant conviction" (*People v Mills*, 1 NY3d 269, 274-275 [2002]). Legally sufficient evidence means competent evidence which, if accepted as true, would establish every element of an offense charged and the defendant's commission thereof (CPL 70.10[1]; *see People v Flowers*, 138 AD3d 1138, 1139 [2d Dept 2016]). "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 Jessup*, 90 AD3d 782, 783 [2d Dept 2011]). "The reviewing court's inquiry is limited to whether the facts, if proven, and the inferences that logically flow from those facts supply proof of every element of the charged crimes, and whether the Grand Jury could rationally have drawn the guilty inference. That other, innocent inferences could possibly be drawn from those facts is irrelevant to the sufficiency inquiry as long as the Grand Jury could rationally have drawn the guilty inference" (*People v Bello*, 92 NY2d 523, 526 [1998]). Here, the evidence presented, if accepted as true, is legally sufficient to establish every element of the offenses charged (CPL 210.30[2]).

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 reveal that a quorum of the grand jurors was present during the presentation of evidence, and that the Assistant District Attorney properly instructed the Grand Jury on the law, including with respect to hearsay evidence, and only permitted those grand jurors who heard all the evidence to vote the matter (*see People v Collier*, 72 NY2d 298 [1988]; *People v Calbud*, 49 NY2d 389 [1980]; *People v Valles*, 62 NY2d 36 [1984]; *People v Burch*, 108 AD3d 679 [2d Dept 2013]).

To the extent that defendant's motion seeks disclosure of portions of the Grand Jury minutes beyond the disclosure directed by CPL Article 245, such as the prosecutor's instructions and/or colloquies, the court denies that branch of the motion.

VI.

#### BRADY MATERIAL

The People acknowledge their continuing duty to disclose exculpatory material (*Brady v Maryland*, 373 US 83 [1963]; *see Giglio v United States*, 405 US 150 [1971]). If the People are or become aware of any such material which is arguably subject to disclosure under *Brady* and its progeny and Criminal Procedure Law Article 245 which they are unwilling to consent to disclose, they are directed to bring it to the immediate attention of the court and to submit it for the court's in camera inspection and determination as to whether it constitutes *Brady* material discoverable by the defendant.

VII.

MOTION for SANDOVAL and VENTIMIGLIA HEARINGS

Defendant has moved for a pre-trial hearing to permit the trial court to determine the extent, if at all, to which the People may inquire into defendant's prior criminal convictions or prior uncharged criminal, vicious, or immoral conduct. On the People's consent, the court orders a pre-trial *Sandoval* hearing (*see People v Sandoval*, 34 NY2d 371[1974]). At said hearing, the People shall notify defendant, *in compliance with CPL Article 245*, of all specific instances of her criminal, prior uncharged criminal, vicious, or immoral conduct of which they have knowledge and which they intend to use in an attempt to impeach defendant's credibility if she elects to testify at trial, *and, in any event, not less than 15 days prior to the first scheduled trial date*. Defendant shall bear the burden of identifying any instances of her prior misconduct that she submits the People should not be permitted to use to impeach her credibility. Defendant shall be required to identify the basis of her belief that each event or incident may be unduly prejudicial to her ability to testify as a witness on her own behalf (*see People v Matthews*, 68 NY2d 118 [1986]; *People v Malphurs*, 111 AD2d 266 [2d Dept 1985]).

If the People determine that they will seek to introduce evidence at trial of any prior uncharged misconduct and criminal acts of defendant, including acts sought to be used in their case in chief, they shall so notify the court and defense counsel, *in compliance with CPL Article 245, and, in any event, not less than 15 days prior to the first scheduled trial date*, 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 so used by the People. 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.


VIII.

LEAVE TO MAKE ADDITIONAL MOTIONS

Defendant's motion for leave to make additional motions is denied. Defendant must demonstrate good cause for any further pre-trial motion for omnibus relief, in accordance with CPL 255.20(3).

The foregoing constitutes the decision and order of this court.

Dated: White Plains, New York  
May 17, 2022

  
Honorable Anne E. Minihan  
Acting Justice of the Supreme Court