

People v Chanes Sanchez

2023 NY Slip Op 34887(U)

November 13, 2023

Supreme Court, Westchester County

Docket Number: Indictment No. 23-72219

Judge: Anne E. Minihan

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HENRY C. IDONI
COUNTY CLERK
COUNTY OF WESTCHESTER

SUPREME COURT: STATE OF NEW YORK
COUNTY OF WESTCHESTER

FILED
AND ENTERED
ON 11-14-2023
WESTCHESTER
COUNTY CLERK

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

-against-

HILARIO CHANES SANCHEZ
Defendant.
-----X

DECISION & ORDER
Indictment No. 23-72219

MINIHAN, J.

Defendant Hilario Chanes Sanchez, charged by Westchester County Indictment Number 23-72219 with Driving While Intoxicated, as an E Felony¹ (Vehicle and Traffic Law § 1192[3]), Aggravated Unlicensed Operation of a Motor Vehicle in the First Degree² (Vehicle and Traffic Law § 511[3][a][i]), and Moved from Lane Unsafely (Vehicle and Traffic Law § 1128[a]), has filed an omnibus motion consisting of a Notice of Motion and an Affirmation in Support. In response, the People filed an Affirmation in Opposition together with a Memorandum of Law.

I.
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 him, on the grounds that the evidence before the Grand Jury was legally insufficient and 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

¹ By special information attached to the indictment, defendant is alleged to have been previously convicted of the crime of Driving While Intoxicated (Vehicle and Traffic Law § 1192[3]) on or about April 5, 2021 in the Village Court of Port Chester.

² By special information attached to the indictment, defendant is alleged to have been previously convicted of the crime of Driving While Intoxicated (Vehicle and Traffic Law § 1192[3]) and as a result, defendant's license and privilege to operate a motor vehicle in the State of New York and defendant's privilege of obtaining a license issued by the Commissioner of Motor Vehicles was revoked on or about April 5, 2021 and, defendant, on or about April 16, 2022 knew or had reason to know of said revocation and said revocation was in effect at that time.

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 reveals that a quorum of the grand jurors was present during the presentation of evidence and that the Assistant District Attorney properly and clearly instructed the Grand Jury on the law 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]).

Moreover, as to defendant's additional claims in his Affirmation, the Court finds that the indictment was not voted by an extended term of the Grand Jury, the presentation of evidence was not withdrawn prior to a vote being taken and then re-submitted, the prosecutor properly answered questions raised by the Grand Jurors, the prosecutor did not inject her personal opinions or beliefs or vouch for the credibility of witnesses, and the prosecutor's legal instructions were understandable.

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.

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* material¹ and *Rosario* material, shall be provided forthwith. Leave is granted for either party to seek a protective order (CPL Article 245). If the defense has a particularized reason to believe that there remains outstanding discovery with which counsel has

¹ The People have a 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 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.

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 the defendant shall contact the court to request an immediate compliance conference.

The People filed a Certificate of Compliance on August 22, 2023, 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.³

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.

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]). Again, 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.

The People also acknowledge that they have or will comply with their obligations under CPL 245.20(1) (k), (l), and (p).

IV.

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 discovery which will allow him to prepare and conduct a defense. 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.

V.

MOTION to SUPPRESS NOTICED STATEMENTS

The People, pursuant to CPL 710.30(1)(a), noticed three statements allegedly made by defendant to members of the Westchester County Police on April 16, 2022. Defendant moves to suppress these statements as involuntary, the product of an unlawful arrest, and made without *Miranda* warnings. 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

³ In fact, the People filed a supplemental Certificate of Compliance and Statement of Readiness on or about October 6, 2023.

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]). If a statement is suppressed, the court will then determine whether any evidence obtained as a result of, or due to that statement, should be suppressed.

VI.

MOTION to SUPPRESS PHYSICAL EVIDENCE and
for a REFUSAL HEARING

Defendant moves for suppression of all evidence, including his refusal to submit to a chemical test, the officers' observations of him before, during, and after the Standardized Field Sobriety Tests, and any physical evidence seized from his person or his vehicle. This branch of defendant's motion is granted solely to the extent of conducting a *Mapp* hearing prior to trial to determine the propriety of any search resulting in the seizure of property (see *Mapp v Ohio*, 367 US 643[1961]). The hearing will also address whether any evidence was obtained in violation of defendant's Fourth Amendment rights (see *Dunaway v New York*, 442 US 200 [1979]).

The Court directs that a Refusal Hearing be conducted prior to trial to determine, among other things, that the DWI refusal warnings were provided in accordance with VTL 1194 (see *People v Smith*, 18 NY3d 544, 547 [2012]; *People v Williams*, 99 AD3d 955 [2d Dept 2012]).

VII.

COURT ORDERED SANDOVAL and VENTIMIGLIA HEARINGS

The Court orders a pre-trial *Sandoval* hearing 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 (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 his 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 he 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 his prior misconduct that he submits the People should not be permitted to use to impeach his credibility. Defendant shall be required to identify the basis of his belief that each event or incident may be unduly prejudicial to his ability to testify as a witness on his 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
November 13, 2023



Honorable Anne E. Minihan
Justice of the Supreme Court

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