

People v Young

2024 NY Slip Op 34781(U)

May 30, 2024

County Court, Westchester County

Docket Number: Indictment No. 73161-23

Judge: Maurice Dean Williams

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COUNTY COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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

FILED

JUN 3 2024

TIMOTHY C. IDONI
COUNTY CLERK
COUNTY OF WESTCHESTER

DECISION & ORDER

-against-

Indictment No. 73161-23

JAMES YOUNG

Defendant.

-----X
Williams, J.C.C.

It is alleged that on or about April 26, 2023, in the Town of Greenburgh, County of Westchester, State of New York, at approximately 3:45 a.m., the complainant through his window observed the Defendant, James Young, taking his 2015 Nissan Pathfinder from his driveway, causing damage to the vehicle. The complainant went outside, got into his son's car, and followed the Nissan to the intersection Maple and Warren Street in the Town of Greenburgh, where the Defendant exited the vehicle and started to run. The complainant caught the Defendant and held him until the police arrived on the scene. The police had been dispatched pursuant to a 911 call for a stolen vehicle. The police were able to locate the stolen 2015 Nissan Pathfinder in the vicinity of where the Defendant was apprehended by the complainant, the engine was still running.

Defendant was arrested and charged by a felony complaint in the Town of Greenburgh Justice Court. During his arraignment a temporary order of protection was issued in favor of the complainant. A few days later, on April 28, 2023, at approximately 2:50 p.m., the Defendant appeared at the complainant's place of business. The complainant photographed the Defendant at his place of employment, contacted the police, and filed a report. Defendant was arrested and charged with contempt of court for violating the order of protection.

Defendant is charged by Indictment No. 73161-23 with one count of Grand Larceny in the Third Degree (P.L. § 155.35 [1]), one count of Grand Larceny in the Fourth Degree (P.L. § 155.30 [8]), one count of Criminal Possession of Stolen Property in the Third Degree (P.L. § 165.50), one count of Criminal Possession of Stolen Property in the Fourth Degree (P.L. § 165.45 [5]), one count of Criminal Mischief in the Third Degree (P.L. § 145.05), and Criminal Contempt in the Second Degree (P.L. 215.50 [3]).

By notice of motion and affirmation in support, the Defendant moves for omnibus relief seeking 1) demand for a bill of particulars; 2) demand for discovery; 3) demand for Brady material; 4) a *Sandoval* hearing; 5) a *Ventimiglia* hearing; 6) a *Huntley* hearing; 7) a *Wade* hearing; 8) inspection of the Grand Jury minutes and dismissal of the charges in the indictment; 9) production of the People's witnesses; 10) the suppression of all physical evidence; 11) to conduct pre-trial hearings in advance of trial; and 12) to reserve the right to make further motions.

The People have submitted an affirmation in opposition and memorandum of law which consents to the inspection of the Grand Jury minutes, and the request for a *Sandoval* and *Ventimiglia* hearing to the extent necessary. Upon consideration of these papers, as well as the review of the Grand Jury minutes, the Defendant's motion is decided as follows:

I. Motion for a Bill of Particulars

This motion is denied as untimely. Pursuant to CPL § 200.95[3], a demand for bill of particulars "shall be timely if made within thirty days after arraignment and before the commencement of trial". The Defendant was arraigned on December 1, 2023 and the demand for a bill of particulars was served on or about April 15, 2024, as an exhibit to this omnibus motion. Thus, it is untimely as it was filed after the expiration of the time specified in CPL §

200.95[3]. Defendant has not provided any explanation for the delay or demonstrated that good cause exists for the extension of time to file his demand. In any event, even if the demand had been timely filed, the Court finds that the information requested in the demand for a bill of particulars, to the extent it constitutes an appropriate demand, has been sufficiently provided by the People in the materials served as part of their statutory discovery obligation.

II. Motion for Discovery

This motion is denied. Defendant errantly relies upon a statute which no longer governs discovery in criminal cases (CPL Article 240). The People filed a certificate of compliance and statement of readiness as required by the current discovery statute on or about April 10, 2024, and a supplemental certificate of compliance was filed on April 12, 2024 (*see generally* CPL Article 245). Defendant has acknowledged receipt of both the certificate of compliance and the supplemental certificate, and the discovery associated with the certificates. Accordingly, the People are in compliance with their discovery obligations. Both sides are reminded of their respective ongoing discovery obligations under the Criminal Procedure Law.

III. Motion for Exculpatory Information

With respect to the Defendant's request for the People to produce exculpatory material or impeachment material within the meaning of *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.E.2d 215 [1963] and *Giglio v. United States*, 405 U.S. 150, 92 S.Ct. 763, 31 L.E.2d 104 [1972] within their possession: the People have acknowledged and are reminded of their continuing obligation to disclose any exculpatory evidence and impeachment material at the earliest possible date. Thus, the motion is granted to the extent stated above.

IV. Motion for a Sandoval/Ventimiglia Hearing

Defendant's request for a *Sandoval/Ventimiglia* hearing is granted, on consent, and shall be conducted immediately prior to trial as to any prior criminal convictions, or prior uncharged crimes, vicious or immoral or bad acts.

The People must notify the Defendant, in compliance with CPL § 245.20, not less than fifteen days prior to the first scheduled date for trial, of all specific instances of the Defendant's criminal, prior uncharged criminal, bad acts, vicious or immoral conduct of which the People have knowledge and intend to use at trial for purposes of impeaching the credibility of the Defendant, or as substantive proof of any material issue in the case. The People shall specifically designate the way such act will be used.

VI & VII. Requests for Huntley and Wade Hearings

The motion for the *Huntley* and *Wade* hearings are denied as moot. Defendant has moved to suppress identification testimony and the statements made to law enforcement officials which were the subject of the CPL § 710.30 notices served by the People. The People have responded that they have not served any CPL § 710.30 notices concerning any statements made by the Defendant to law enforcement, or that any police arranged identification procedures occurred in this case. Accordingly, in the absence of any alleged statements made to law enforcement officials by the Defendant, and there being no identification procedures employed by the police, there is no need for any suppression hearings on these issues.

VIII. Motion to Inspect the Grand Jury Minutes and to Dismiss and/or Reduce the Indictment

Pursuant to CPL §§ 210.20[1][b] and 210.30, Defendant requests an *in camera* inspection of the Grand Jury minutes and if the Court finds the evidence was not legally sufficient to sustain all or a portion of the charges, or finds that the Grand Jury proceedings were defective, seeks

dismissal of the indictment. The People have consented to an *in camera* inspection of the Grand Jury minutes stating that a review of the minutes will demonstrate the Grand Jury was presented competent evidence sufficient to support every charge within the indictment, and that the proceedings were legally proper.

The application is granted only to the extent that the Court has conducted an *in camera* inspection of the minutes of the Grand Jury proceedings and finds as follows: that the indictment is supported by legally sufficient evidence and there were no procedural irregularities. 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” (*People v. Jensen*, 86 N.Y.2d 248, 251, 630 N.Y.S.2d 989 [1995]). Judicial scrutiny is limited to determining “whether the evidence viewed in the light most favorable to the People, if unexplained and uncontradicted, would warrant conviction by a petit jury” (*People v. Mayer*, 1 A.D.3d 461, 463, 768 N.Y.S.2d 222, 225 [2nd Dept. 2003]; see *People v. Jennings*, 69 N.Y.2d 103, 512 N.Y.S.2d 652).

Upon review of the evidence presented, this Court finds that all counts of the indictment were supported by sufficient evidence (*People v. Calbud, Inc.*, 49 N.Y.2d 389, 426 N.Y.S.2d 238 [1980]), that the Grand Jury was properly instructed (*People v. Valles*, 62 N.Y.2d 36, 476 N.Y.S.2d 50 [1984]), and a quorum of grand jurors were present throughout the People’s presentation (*People v. Collier*, 72 N.Y.2d 298, 532 N.Y.S.2d 718 [1988]). Moreover, there was sufficient evidence connecting the Defendant to the crimes charged and there were no other defects within the meaning of CPL § 210.35 which would warrant dismissal of the instant indictment.

Accordingly, this branch of the Defendant's motion seeking dismissal and/or the reduction of any charges in the indictment is denied.

IX. Motion to Compel Production of People's Witnesses

This motion is denied as moot. Defendant alleges that the names of the People's witnesses are necessary to adequately prepare his defense. Defendant seemingly is also requesting the address, arrest, and conviction records for any potential witnesses. In response, the People state the information sought has been provided in the Discovery Index that was served upon the Defendant in April 2024. Defendant acknowledged receipt of the Discovery Index at that time. Since there is no issue in controversy to resolve, this motion is deemed moot.

X. Motion to Suppress Physical Evidence

Defendant's motion to suppress all physical evidence seized by law enforcement officers following his arrest, namely the 2015 Nissan Pathfinder, is summarily denied. The People assert the Defendant's fourth amendment motion should be summarily denied for failure to assert sworn allegations of fact as required.

Pursuant to CPL § 710.60, a motion for suppression must state the grounds for the motion and contain sufficient sworn allegations of fact otherwise it may be summarily denied. The sufficiency of the factual allegations will be "(1) evaluated by the face of the pleadings, (2) assessed in conjunction with the context of the motion and (3) evaluated by defendant's access to information" (*see People v. Bryant*, 8 N.Y.3d 530, 533, 838 N.Y.S.2d 7 [2007]). Although summary denial of a suppression motion may be permissible, it is not mandatory even where the factual allegations within the motion are deficient (*see People v. Mendoza*, 82 N.Y.2d 415, 604 N.Y.S.2d 922 [1993]). Ultimately, it is left within the sound discretion of the Court to determine if a hearing should be granted.

This branch of Defendant's motion is summarily denied. Defendant has failed to provide adequate factual allegations to warrant a hearing. Beyond asserting legal authority, the Defendant's motion fails to contain any sworn or unsworn allegations of facts which would serve as the grounds to require a hearing. Further, the vehicle in question is alleged to have been stolen and belonging to the complainant. The Defendant has failed to assert any facts to demonstrate that he has standing to challenge the search (*see People v. Chavis*, 218 A.D.3d 1368, 194 N.Y.S.3d 393, 395, *leave to appeal denied*, 40 N.Y.3d 1012, 222 N.E.3d 528 [2023]). Under these facts, "[t]he defendant had no legitimate expectation of privacy in the vehicle, which was owned by and had been [allegedly] stolen from another individual (*People v. Brown*, 244 A.D.2d 348, 348, 663 N.Y.S.2d 879, 879 [2nd Dept. 1997]).

XI. Motion for Hearings to be Held in Advance of Trial

With respect to the Defendant's application for any pre-trial hearing to be held weeks in advance of trial, that application is denied without prejudice to renew before the judge who will preside over the hearing and trial.

VI. Reservation of Rights

To the extent the Defendant seeks to make further pre-trial motions as necessary, such shall be subject to the provisions of CPL § 255.20.

This constitutes the decision and order of this Court.

Dated: White Plains, New York
May 30, 2024



Hon. Maurice Dean Williams
County Court Judge