

**People v Lynch**

2012 NY Slip Op 33957(U)

June 19, 2012

Supreme Court, Queens County

Docket Number: 303-11

Judge: Robert C. McGann

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MEMORANDUM

SUPREME COURT, QUEENS COUNTY  
CRIMINAL TERM, PART TAP-C

THE PEOPLE OF THE STATE OF NEW YORK	: By: Robert C. McGann, J.S.C.
-against-	:
DAVID LYNCH,	: Dated: June 19, 2012
Defendant.	:
	: Ind. No. 303-11
	:
	:

Defendant, David Lynch, moves before this Court for an order suppressing physical evidence and statements. A hearing was held on these issues and the Court makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

On November 23, 2010, at about 2 A.M., Police Officers Scott Blennaio and Franklin Pierre Louis were on routine patrol in the vicinity of Beach Channel Drive and Beach 35<sup>th</sup> Street in the Rockaway section of Queens.

While they were stopped at a light they observed a black Honda driving erratically. The car was swerving, and the horn was honking. They also observed the car approach a traffic circle and saw the car go around the circle two times.

The officers put on their flashing lights and attempted to pull the car over. The Honda did not stop and over the public address system of the patrol car, Officer Blennaio ordered the car to

stop.

The Honda continued to proceed down Far Rockaway Boulevard, went through a red light and crossed the double yellow line in the path of oncoming traffic.

The Honda came to a stop at Bay 32 street, and the officers pulled up behind the Honda, and got out of their car and approached the Honda. The defendant got out of the Honda. Officer Pierre Louis pointed his service weapon at the defendant, and the defendant said "Put your gun away, I called this in. My girlfriend just committed suicide on the beach. I did something I didn't want to do." The defendant's clothing was wet, and covered in sand. The defendant appeared to be intoxicated.

Officer Pierre Louis intended to arrest the defendant for driving while intoxicated. He cuffed the defendant and placed him in the police car. While in the car, Officer Pierre Louis attempted to advise the defendant of his constitutional rights. As he began the litany, the defendant said that I am taking Criminal Justice classes, I was a sergeant in the military, I know my rights." The defendant also verbally completed some of the rights, as they were being stated by Officer Pierre Louis. No questions were asked of the defendant after this, by Officers Pierre Louis and Blenno.

Officer Pierre Louis went to the Honda and saw a wallet between the two front seats. There was also a lot of sand in the car, and a pair of women's jeans on the front passenger seat, and a purse with a hair brush. All of these items were taken by Police Officer Pierre Louis.

A search party was sent to the beach and a woman's body was found on the beach about half a mile away. The woman was lying face down, wearing a black shirt. The woman's underwear had been pulled down. There was an empty bottle of liquor next to the body, and what

appeared to be a blood stain on the sand. The defendant was taken to the precinct.

At the precinct, Officer Pierre Louis took the defendant's pedigree, and was told by the defendant that he lives in Far Rockaway, his girlfriend's name is Althea Lewis and that he met her online a month earlier. The defendant's clothing was vouchered, and a gold ring that he was wearing which appeared to have blood on was also vouchered.

Detective Quinn Jaeger was assigned to investigate. At 4:30 A.M., the defendant was brought to the interview room.

At 7:30 A.M., Detective Jaeger advised the defendant of his constitutional rights from a form. The defendant read the rights out loud, initialed each of these rights, and told the detective that he understood them and agreed to make a statement. The form was signed by the defendant.

The defendant made an oral statement, wrote out another statement, and signed a written consent form to take an oral DNA swab.

At 3:30 P.M., the defendant made a second oral and written statement about the events of that night.

At 7:30 P.M., a third oral and written statement was made by the defendant.

At 8:30 P.M., the defendant was interviewed by an Assistant District Attorney. This interview was recorded.

#### CONCLUSIONS OF LAW

With regard to the property, the Court concludes that all of the items were seized while in plain view or incident to the lawful arrest of the defendant. *People v. DeSantis*, 46 N.Y.2d 82

(1978).

With regard to the statements made by the defendant at the scene to Officers Belenao and Pierre Louis, the Court concludes that these statements were spontaneous in nature and not the result of any questioning by the officers. *People v. Bretts*, 111 A.D.2d 864.

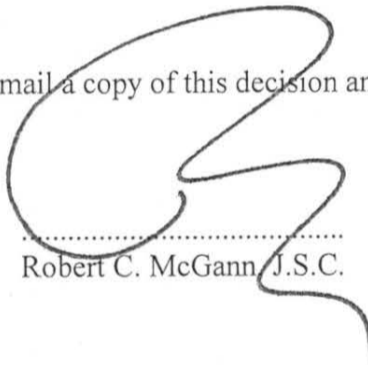
With regard to the series of statements made by the defendant at the precinct, the Court concludes that the defendant was advised of his constitutional rights and knowingly and voluntarily waived them. The Court further concludes that the defendant then made a series of voluntary statements.

Therefore, the motion to suppress physical evidence and statements is denied.

The application is denied in all other respects.

Order entered accordingly.

The clerk of the court is directed to mail a copy of this decision and order to the attorney for the defendant.



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Robert C. McGann J.S.C.