

People v Parsley

2010 NY Slip Op 34018(U)

July 19, 2010

Supreme Court, Westchester County

Docket Number: 10-0611

Judge: Barbara G. Zambelli

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COUNTY COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

FILED
AND
ENTERED
ON 7/19 2010
WESTCHESTER
COUNTY CLERK

THE PEOPLE OF THE STATE OF NEW YORK

DECISION & ORDER

-against-

Ind. No. 10-0611

CHARLES PARSLEY and KASAUN WHITE,

Defendants.

FILED
JUL 19 2010
TIMOTHY C. IDONI
COUNTY CLERK
COUNTY OF WESTCHESTER

ZAMBELLI, J.

By order to show cause dated July 7, 2010, with accompanying affirmation and memorandum of law, the People move pursuant to CPL §240.40(2)(b)(v) for an order requiring Charles Parsley to permit the taking of DNA samples from his body, specifically by a buccal swab of his mouth. In response, the defense has submitted an affirmation in opposition which alleges that the People have failed to meet their burden in demonstrating that there is a clear indication that relevant material evidence will be found by the taking of such buccal swabs because the People's application is supported by their affirmation only without providing a copy of the preliminary lab reports which allegedly link this defendant's DNA to DNA found at the crime scene.

On April 21, 2010, Sandra Hackley-Corneille was shot 5 times at close range in her apartment at 1159 Yonkers Avenue and was killed. Her husband, Raphael Corneille, was also shot several times, but survived his injuries. Ms. Hackley's twelve year old daughter was also shot and injured. The People aver that surveillance video at the apartment building captured the defendants' entry and exit from the building, as well as part of the

shooting of Corneille. Prior to the shooting, a dark blue Ford F-150 truck with chrome detailing was observed parked in the tenants parking area of the building. Video surveillance revealed that co-defendant White was observed limping and clutching his left knee upon exiting the building; such limp had not been present upon his entry. Both defendants were also observed entering the F-150 truck after the shootings. A witness was able to obtain a partial license plate for this truck. The People further aver that co-defendant White checked into Mercy Medical Center in Rockville Center approximately two hours after the shooting complaining of a bullet wound in his left leg.

Upon police investigation of the shooting, cigarette butts and a partially smoked cigar with a plastic tip were located on the ground in the parking lot where the F-150 truck was observed. Blood drops were discovered in the lobby near the victim's apartment, as well as where co-defendant White was observed limping toward the F-150 truck. Police subsequently were able to identify the Ford F-150 and seized and searched the same pursuant to a warrant on May 11, 2010. Such search revealed blood on the carpet in the rear passenger compartment. DNA testing on the cigar tip from the parking lot and on the blood from the vehicle's carpet both yielded DNA profiles which did not match each other, indicating that those two DNA samples came from different individuals.

Defendants were arrested on May 20, 2010 and brought to the Yonkers Police Department, at which time they were given drinks in cups. After the defendants discarded the cups, the police seized them and submitted them for laboratory analysis. Each cup yielded a DNA profile of the individual defendant who drank from it. The DNA testing also compared the cup DNA profiles to that of the carpet blood and cigarette tip. The People aver that the Kasaun White cup DNA matched the profile from the carpet blood and the

Charles Parsley DNA matched the profile from the cigar tip.

The defendants have been indicted and charged with two counts of murder in the second degree, burglary in the first degree, three counts of assault in the first degree, attempted murder in the second degree and two counts of criminal possession of a weapon in the second degree.

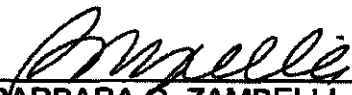
The Court finds that the People have satisfied their burden of establishing (1) probable cause that Charles Parsley committed the charged crimes based upon the indictment handed down by the grand jury before whom the evidence against defendant was presented (People v. Pryor, 14 A.D.3d 723, 725 (3d Dept. 2005); lv. denied, 6 N.Y.3d 779 (2006)). The Court further finds that (2) a clear indication that relevant and material evidence will be found, based upon the People's sworn allegations regarding the defendants' appearances on the surveillance video, the subsequently identified F-150 which was observed at the crime scene and co-defendant's White seeking medical treatment for a gun shot wound shortly after the crime, as well as the sworn allegations regarding the results of the preliminary DNA testing, as such a DNA sample will determine whether a match exists between the DNA found on the cigar tip found at the parking lot of the crime scene and defendant's DNA; and (3) that the method used to secure it, a buccal swab, is safe and reliable (see Matter of Abe A., 56 NY2d 288, 291(1982)).

Based on the seriousness of the crime, and the importance of the evidence to the People, it is ordered that the defendant permit the taking of buccal swab samples from his mouth. It is further ordered that the defendant be produced at the Westchester County Courthouse - First Floor conference room in White Plains, New York for the taking of the buccal swabs, that the samples are to be taken by a District Attorney's Office investigator

or a member of the Yonkers Police Department in an appropriate and safe manner and that the samples are to be taken by a member of the Yonkers Police Department to the Westchester County Department of Laboratories and Research. The date and time when said DNA samples shall be taken will be scheduled at the mutual convenience of all parties concerned.

This Decision constitutes the Order of the Court.

Dated: White Plains, New York
July 19, 2010


BARBARA G. ZAMBELLI
COUNTY COURT JUDGE

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