

People v Sosa
2016 NY Slip Op 33041(U)
October 24, 2016
Supreme Court, Rockland County
Docket Number: 2016-255
Judge: William A. Kelly
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

1132/110 GI

FILED - AC

OCT 31 2016

Rockland County
Clerk's Office

THE PEOPLE OF THE STATE OF NEW YORK

DECISION & ORDER

-against-



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Transaction: DECISION & ORDER
Rockland County, NY
Paul Piperato County Clerk

IND. # 2016-255

GERSON SOSA,

CO-2016-001132

The defendant has moved by omnibus motion, dated September 12, 2016 for various forms of pre-trial relief. The People filed an affirmation in opposition.

The motion is decided as follows:

A. Grand Jury Minutes/Dismissal of Indictment

Pursuant to the defendant's motion to inspect and review, the Court, *in camera*, reviewed the presentation of evidence and legal instructions to the Grand Jury in order to determine the legal sufficiency of that presentation.

This Court has reviewed the evidence presented and finds that the presentation was legally sufficient to support the charges within the indictment. Viewing the evidence in the light most favorable to the People, and allowing for all reasonable inferences to be drawn from the evidence, the People have presented evidence that makes out a *prima facie* case for each crime charged. See

[*2]
generally People v. Swamp, 84 N.Y.2d 725 (1995); People v. Manini, 79 N.Y.2d 561 (1992); People v. Deegan, 69 N. Y.2d 969 (1987); People v. Mayo, 36 N.Y.2d 1002 (1975).

The Grand Jury was adequately instructed on the law with respect to the crimes charged and the attendant legal concepts . People v. Calbud, 49 N.Y.2d 389 (1980); People v. Hillaire, 270 A.D.2d 359 (2nd Dep't 2000). There were no defects in the presentation of evidence that warrant dismissing the indictment. People v. Huston, 88 N.Y.2d 400 (1996).

The defendant's motion for disclosure of the Grand Jury minutes is also denied. In the Matter of the Attorney General of the State of New York v. Firetog, 94 N.Y.2d 477 (2000).

B. Suppression of Statements

The defendant's motion is granted insofar as a hearing will be held immediately prior to trial to determine the admissibility of any statements.

C. Sandoval/Ventimiglia

The defendant's motion is granted insofar as a hearing will be held immediately prior to trial to determine the admissibility of any prior criminal or bad acts which the People seek to use in their direct case or use in the cross-examination of the defendant. At least one day prior to the hearing, the People are to provide counsel for the defendant with an itemized list of prior convictions and/or bad acts they will seek to introduce on their direct case or utilize in cross examining the defendant.

D. Bill of Particulars

The bill of particulars supplied by the People is sufficient. See, e.g., People v. Davis, 41 N.Y.2d 678 (1977). The bill of particulars together with the voluntary disclosure form adequately clarify the pleadings to apprise the defendant of the conduct constituting the crimes charged. Id.


E. Discovery and Inspection

The People's response to the defendant's request for discovery and inspection is sufficient. C.P.L. §240.20.

This Decision shall constitute the Order of the Court.

ENTER

Dated: New City, New York
October 24, 2016



WILLIAM A. KELLY
J.S.C.

TO: THOMAS P. ZUGIBE, ESQ.
District Attorney of Rockland County

JAMES CREAN, ESQ.