

| |
|--|
| People v Abdul-Khabir |
| 2017 NY Slip Op 33312(U) |
| July 17, 2017 |
| County Court, Orange County |
| Docket Number: 2017-323 |
| Judge: Nicholas DeRosa |
| Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service. |
| This opinion is uncorrected and not selected for official publication. |

ORIGINAL

COUNTY COURT : ORANGE COUNTY
STATE OF NEW YORK

-----X

THE PEOPLE OF THE STATE OF NEW YORK,

-against-

IND. NO. 2017-323
INDEX NO. 3230/17

SYED ABDUL-KHABIR,

DECISION AND ORDER

Defendant.

-----X

DE ROSA, N.

Defendant is charged in this indictment with the crimes of **Criminal Possession of a Controlled Substance in the Third Degree**, a Class B Felony, in violation of §220.16(1); **Criminal Possession of a Weapon in the Second Degree**, a Class C Felony, in violation of §265.03(3) and **Criminal Possession of a Weapon in the Third Degree**, a Class D Felony, in violation of §265.02(1) of the Penal Law of the State of New York.

Defendant has moved for certain pre-trial relief which the Court, having considered: 1) the defendant's notice of motion and affirmation, submitted by Kenyon C. Trachte, Esq. 2) the People's affirmation in response, submitted by Leah C. Canton, Esq., Assistant District Attorney, Orange County District Attorney's Office, and 3) the transcript of Grand Jury proceedings, decides as follows.

MOTION TO INSPECT GRAND JURY MINUTES

Defendant's motion is granted to the extent that the Court

[* 2]

has reviewed the minutes of the Grand Jury *in camera*. The Court finds that release of the minutes is not necessary to the determination of this motion. The Court further finds that the indictment is based upon legally sufficient evidence and that the Grand Jury was properly instructed with respect to the applicable law.

MOTION FOR A BILL OF PARTICULARS

Defendant's motion is denied as the information provided by the People is sufficient to enable defendant to adequately prepare or conduct a defense. CPL §200.95.

MOTION FOR DISCOVERY AND INSPECTION

Defendant's motion is granted to the extent that the information was previously provided or inspection was consented to in the People's Voluntary Disclosure Form and/or Affirmation in Response. In all other respects, defendant's application is denied.

MOTION FOR BRADY MATERIAL

Defendant's motion is granted to the extent that the District Attorney is directed to disclose to defendant any and all documents, materials and/or information, if any, required to be disclosed pursuant to Brady v. Maryland.

MOTION TO CONTROVERT SEARCH WARRANT

Defendant moves to suppress physical evidence on the grounds of unlawful police conduct during the execution of a violation of

[* 3]
probation arrest warrant. Defendant's motion is granted to the extent that a hearing is ordered limited to the issue of the legality of the execution of the warrant and subsequent observation of the physical evidence located in a second floor bedroom at 142 West Parmenter Street in the City of Newburgh.

MOTION TO SUPPRESS STATEMENTS

Defendant's motion is granted to the extent that a hearing is hereby ordered on the issue of the voluntariness of any statements made by the defendant to law enforcement personnel as well as the legality of the defendant's arrest.

MOTION FOR A SANDOVAL AND VENTIMIGLIA HEARING

Defendant's motion is granted to the extent that a hearing is hereby ordered which will be held to determine which, if any, bad acts or convictions may be used as impeachment in the event that the defendant elects to testify at trial. The Court will also order a hearing to determine, which, if any, bad acts or convictions may be used as evidence in the People's direct case. The District Attorney is ordered to disclose, in accordance with CPL Section 240.43, any and all acts which he intends to use for purposes of impeaching defendant at trial, as well as any and all acts and/or convictions to be presented as evidence in chief.

CONFERENCE/HEARING DATE


This matter is scheduled for a pre-trial hearing to be held on July 18, 2017. All parties are directed to be present.

[*4]

The foregoing constitutes the Decision and Order of the
Court.

Dated: Goshen, New York
July 17, 2017

E N T E R.



HON. NICHOLAS DE ROSA
COUNTY COURT JUDGE

TO: DAVID M. HOOVLER, ESQ.
ORANGE COUNTY DISTRICT ATTORNEY
Attorney for the People
40 Matthews Street
Goshen, New York 10924

KENYON C. TRACHTE, ESQ.
Attorney for the Defendant
372 Fullerton Avenue
Newburgh, New York 12550