

People v Reid

2019 NY Slip Op 34879(U)

February 8, 2019

Supreme Court, New York County

Docket Number: Index No. 02845/17

Judge: Curtis J. Farber

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SUPREME COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: PART TAP B

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THE PEOPLE OF THE STATE OF NEW YORK,

DECISION AND ORDER

Ind. No. 02845/17

-against-

RAYMOND REID,

Defendant.

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Curtis J. Farber, A.J.S.C.

By Notice of Motion filed and served on January 11, 2019, Defendant moves for release from custody, pursuant to CPL 30.30(2)(a). The People filed and served an Affirmation in Opposition on January 22, 2019.

CPL 30.30(2)(a) provides that a defendant must be released from custody if the People are not ready for trial within 90 days from the commencement of his incarceration. The Court, having reviewed the parties motion papers, the court file, and the applicable law, makes the following findings:

Defendant was arraigned on a felony complaint on July 27, 2017 and was committed to custody. The case was adjourned for grand jury action to August 1, 2017. These **5 days** are charged to the People.

On August 1, 2017, the People filed a certificate of grand jury action and the case was adjourned to August 23, 2017, for Supreme Court arraignment. This period of **22 days** is charged to the People.

On August 23, 2017, Defendant was arraigned on the indictment and a motion schedule was set. Defendant does not contest the excludability of the adjournments from August 23, 2017, through October 4, 2017.

On October 4, 2017 and November 15, 2017, the matter was adjourned at the request of defense counsel for possible disposition. Defendant does not contest the excludability of the adjournments from October 4, 2017 to December 20, 2017.

On December 20, 2017, the case was adjourned for a CPL 730 examination. Defendant does not contest the excludability of the adjournment from December 20, 2017, through January 31, 2018.

On January 31, 2018 and March 14, 2018, the case was adjourned on consent for possible disposition. Defendant does not contest the excludability of the adjournments from January 31, 2018 through April 18, 2018.

On April 18, 2018, there was no disposition and the case was adjourned for hearing and trial. Defendant does not contest the excludability of the adjournment from April 18, 2018, through June 4, 2018.

On June 4, 2018, the People were ready for hearing and trial, but defense counsel failed to appear when the case was called, and the matter was adjourned to June 21, 2018 for defense counsel to appear. On June 21, 2018, defense counsel was present in court and a new trial date was set for July 23, 2018. Defendant does not contest the excludability of the adjournments from June 4, 2018 through July 23, 2018.

On July 23, 2018, the People were not ready for trial because a necessary police witness was unavailable due to a line-of-duty injury. The People have provided

documentation that the officer injured his back while assisting in an arrest of a suspect on June 15, 2018. As of July 23, 2018 he was not cleared to return to work, but had a follow-up appointment for a re-assessment of his medical condition on August 20, 2018. As there were "reasonable grounds to believe that [he would] become available within a reasonable period," the officer's unavailability constituted an exceptional circumstance. Accordingly, the period between July 23, 2018 and September 5, 2018 is excluded (CPL 30.30[4][g]).

On September 5, 2018, the People were not ready based on the medical unavailability of the same police witness. The People have provided medical documentation that he was not cleared for work as of September 5, 2018, but had a subsequent appointment to re-assess his condition on September 20, 2018. As with the last adjournment, because there were "reasonable grounds to believe that [he would] become available within a reasonable period," the period between September 5, 2018 and October 16, 2018 is excluded (CPL 30.30[4][g]).

On October 16, 2018 the People were not ready based on the medical unavailability of the same police witness but informed the Court that they believed the witness would be declared medically able to return to work the following day, October 17, 2018. (In fact, the People have provided documentation that the officer was deemed "fit for work" on October 17, 2018). The People requested an adjournment to October 19, 2018 for hearing and trial, and the case was adjourned to October 30, 2018. As the People had answered ready for trial on June 4, 2018, the People are charged for the **2 days** from the date the Officer was cleared for work (October 17, 2018) to the date of the People's request (October 19, 2018).

On October 30, 2018, the People were ready for hearing trial, and defense counsel requested an adjournment. On the next court date, November 29, 2018, the People were once again ready for hearing and trial, but defense counsel failed to appear when the case was called. Defendant does not contest the excludability of the adjournments from October 30, 2018 through January 7, 2019.

On January 7, 2019, the People were ready for hearings only, and the case was adjourned to January 11, 2019 for hearings. As conceded by the People, the period of **4 days** between January 7, 2019 and January 11, 2019 (when the People answered not ready for trial) is charged to the People.

On January 11, 2019, Defendant filed the current motion and the case was adjourned for decision.

Conclusion

The People are charged with **33 days**. Accordingly, Defendant's motion for release from custody, pursuant to CPL 30.30(2)(a), is DENIED.

This constitutes the Decision and Order of the Court.

DATED: February 8, 2019
New York, New York

TAP B FEB 08 2019



CURTIS J. FARBER, A.J.S.C.

HON. CURTIS J. FARBER