

At a Term of the District Court held in and for the District Court House for the First District, County of Nassau, at 99 Main Street, Hempstead, New York, on the 3rd day of February 2004

Present: Hon: District Court Judge, Nassau County

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THE PEOPLE OF THE STATE OF NEW YORK

Docket No:

against

:

DISTRICT COURT INFORMATION

:

PART

DEFENDANT

:

Motion for

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1. Upon information and belief, my client asserts that at or about the time of his stop by the arresting officers, on or about 10:28 PM on November the 5th, 2003 that he was then in conformance with all traffic laws, that the stop was nothing but a pretext to stop his vehicle and as such demands as a matter of law that he be entitled to a Dunaway Hearing to determine the legitimacy of the stop by the arresting Office.

In order to properly prepare his defense it is necessary for your affiant to inspect and have copies of any and all information available to the police prior to this stop, including but not limited to a any and all tapes of any and all transmissions and the transcripts of any and all radio transmissions the arresting officers had with other police offers, his precinct and or police headquarters or with anyone else relating to the stop of this defendant prior to, during and after the time and place asserted in the People's Information.

Should this information not be in the custody of the District Attorney's Office, the defense demands that the Court order the District Attorney and or the Nassau County Police Department, to search and to turn over what should be normal business records of the Nassau Police Department and if it is the custom to destroy such records after a period of time, the defense demands that said records to the extent they exist, not be destroyed. If they have been destroyed, the defense demands a sworn statement from the custodian of such records indicating the retention period for maintaining such records and why these records have or are not available.

2. The people have served the defense with C.P.L. Section 710 Notice of a statement made by my client which they intend to introduce at trial.

Furthermore, , after talking to my client, and on information and belief my client asserts that he was in abeyance of all the traffic laws at the time of his being stopped, and therefore any statements allegedly made by my client pursuant to such stop were the fruit of a stop for which there was no reasonable basis and therefore, the People request a Huntley Hearing to determine the legality of any alleged statements made by my client to the police.

3. Additionally, the defense will be seeking a Sandoval Hearing to determine and have a ruling from this court as to which any prior convictions the defendant would be questioned upon should he take the stand in his own defense.

4. The defendant is charged with a violation of Section 165.45 of the penal Law related to the alleged possession of stolen plates on the vehicle he was driving when pulled over and arrested.

The defense demands any and all information including computer printouts, transcripts of conversations and any other business records created during the inspection of the defendant's license plates to determine if the check of the plates were done prior to or after the defendant was stopped and ultimately arrested. Should this information not be in the custody of the District Attorney's Office, the defense demands that the Court order the District Attorney and or the Nassau County Police Department, to search and to turn over what should be normal business records of the Nassau Police Department and if it is the custom to destroy such records after a period of time, the defense demands that said records to the extent they exist, not be destroyed.

5. The defense demands that any and all Brady material or any other material of an exculpatory nature that becomes available to the District Attorney's Office be immediately turned over to the defense.

WHEREFORE based on the foregoing, I respectfully request that this motion for the above mentioned hearings and for the above mentioned additional discovery material as set forth above, be granted in behalf of the defendant.

Yours, etc.

Steven B. Kline, Esq.
Assigned Counsel
Pursuant to Section 18B
Of the County Law

ENTER

DISTRICT JUDGE, NASSAU
COUNTY
HON.