A GUIDE TO CASE NAMES

FREQUENTLY USED IN

NEW YORK CRIMINAL PRACTICE

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Introductory Note

This list provides brief descriptions of the meaning associated with case names often used by judges and lawyers in New York criminal practice. Please keep in mind that some courts may not recognize these terms. It should be noted that the use of case names has been criticized as a shortcut that can cause a lack of precision or understanding. See, Retirement of the Term "*Wade* Hearing": A First Step Toward Phasing Out the Practice of Using Case Name Hearings in Suppression Litigation, Hon. John J. Brunetti, Acting New York State Supreme Court Justice, New York State Bar Journal, February 1997, p. 24.

Aguilar-Spinelli test

Spinelli v. United States, 393 US 410, 89 S.Ct. 584, 21 L.Ed.2d 637 (1969)
Aguilar v. Texas, 378 US 108, 84 S.Ct. 1509, 12 L.Ed.2d 723 (1964)

Two-prong test to determine whether hearsay information from an undisclosed informant provided probable cause for a search warrant to be issued. The two prongs are: 1) the veracity or reliability of the informant (usually shown by having provided accurate information in previous cases), and 2) the basis of the informant's knowledge. This test has been abandoned by the United States Supreme Court in favor of a totality of the circumstances approach (see, Illinois v. Gates, 462 US 213, 103 S.Ct. 2317, reh denied 463 US 1237, 104 S.Ct. 33 [1983]) but lives on in New York (see, People v. Griminger, 71 NY2d 635, 524 N.E.2d 409, 529 N.Y.S.2d 55 [1988]).

Alfinito hearing

People v. Alfinito, 16 NY2d 181, 186, 211 N.E.2d 644, 264 N.Y.S.2d 243 (1965)

A hearing to determine whether evidence should be suppressed because perjurious statements were used to obtain a search warrant. The burden of proof is on the person attacking the search warrant to show by a preponderance of the evidence that false information was knowingly and intentionally used, or was included with reckless disregard for the truth, and that probable cause is lacking without this information. Also called a Franks hearing (see, Franks v. Delaware, 438 US 154, 98 S.Ct. 2674, 57 L.Ed.2d 667 [1978]).

Alford plea

North Carolina v. Alford, 400 US 25, 31, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970)

A guilty plea in which the defendant does not admit to commission of a crime, but acknowledge that entry of the guilty plea is in the defendant's best interest. Sometimes referred to as a Serrano plea in New York State, based upon People v. Serrano, 15 NY2d 304, 206 N.E.2d 330, 258 N.Y.S.2d 386 (1965).

Allen charge

Allen v. United States, 164 US 492, 17 S.Ct. 154, 41 L.Ed. 528

A charge given when a deliberating jury has indicated that it cannot reach a unanimous verdict. It reiterates the jury's duty to deliberate. See, People v. Ali, 47 NY2d 920, 393 N.E.2d 481, 419 N.Y.S.2d 487 (1979); CJI 42.08.

Anders brief

Anders v. California, 386 US 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967)

A brief by assigned appellate counsel seeking to be relieved of the assignment because there are no meritorious issues to raise on appeal (also known as a "Crawford" brief" in the Appellate Division, Fourth Department). See, People v. Crawford, 71 AD2d 38, 421 N.Y.S.2d 485 (1979).

Argentine hearing

People v. Argentine, 67 AD2d 180, 414 N.Y.S.2d 732 (1979)

A hearing to determine whether a defendant's cooperation with the prosecution entitles the defendant to dismissal (e.g., the defendant claims he or she took risks to help the prosecution, but the prosecution is not satisfied with the level of cooperation).

Batson rule

Batson v. Kentucky, 476 US 79, 106 S.Ct. 1712, 90 L.Ed. 69 (1986)

The use of peremptory challenges to exclude prospective jurors on the basis of race is unconstitutional.

Brady material

Brady v. Maryland, 373 US 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963)

Any evidence in the prosecutor's possession or knowledge which is exculpatory must be disclosed to the defense (see, People v.Vilardi, 76 NY2d 67, 555 N.E.2d 915, 556 N.Y.S.2d 518 [1990]).

Bruton rule

Bruton v. United States, 391 US 123, 88 S.Ct. 1620, 20 L.Ed.2d 476 (1968)

This rule provides that it is error to admit into evidence at a joint trial of codefendants the confession of a codefendant which implicates the defendant. This is so even where

the defendant has given an "interlocking" confession (see, Cruz v. New York, 481 US 186, 107 S.Ct. 1714, 95 L.Ed.2d 162 [1987]).

Clayton hearing

People v. Clayton, 41 AD2d 204, 342 N.Y.S.2d 106 (1973)

A hearing to determine whether a case should be dismissed in the interest of justice (see CPL §210.40).

Crawford brief

People v. Crawford, 71 AD2d 38, 421 N.Y.S.2d 485 (1979)

A brief by assigned appellate counsel seeking to be relieved of the assignment because there are no meritorious issues to raise on appeal. Also known as an "Anders" brief (Anders v. California, 386 US 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 [1967]) outside of the Appellate Division, Fourth Department.

Crimmins harmless error rule

People v. Crimmins, 36 NY2d 230, 326 N.E.2d 787, 367 N.Y.S.2d 213 (1975)

An error raised on appeal will not cause reversal if it was harmless. Errors of constitutional dimension are harmless where there is no reasonable possibility that the error might have contributed to the defendant's conviction. Non-constitutional errors are harmless where there is overwhelming proof of guilt and no significant probability of acquittal but for the error.

Darden hearing

People v. Darden, 34 NY2d 177, 313 N.E.2d 49, 356 N.Y.S.2d 583 (1974)

An in camera hearing to determine whether information provided by an informant was sufficient to justify the issuance of a search warrant.

DeBour levels of intrusion

People v. DeBour, 40 NY2d 210, 352 N.E.2d 562, 386 N.Y.S.2d 375 (1976)

Four tiers or degrees of police intrusion into a person's privacy are permitted, each with its own level of justification. Level One - a stop to request information based on an objective, credible reason, not necessarily as a result of suspected criminal activity. Level Two - a stop to ask about possible criminal conduct (a/k/a "common law right of inquiry") based upon a founded suspicion of criminal activity. Level Three - stop and seizure based upon reasonable suspicion of criminal activity, with a frisk permitted

where there is a reasonable basis to believe the person is armed. Level Four - Arrest based on probable cause. See generally, People v. Hollman, 79 NY2d 181, 590 N.E.2d 204 (1992).

Dokes violation

People v. Dokes, 79 NY2d 656, 595 N.E.2d 836 (1992)

It is error to conduct a Sandoval hearing involving factual matters in the absence of the defendant, who might have peculiar knowledge to advance which would influence the Sandoval ruling.

Dunaway hearing

Dunaway v. New York, 442 US 200, 99 S.Ct. 2248, 60 L.Ed.2d 824 (1979)

A hearing to determine whether the police had probable cause to arrest.

Franks hearing

Franks v. Delaware, 438 US 154, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978)

A hearing to determine whether evidence should be suppressed because perjurious statements were used to obtain a search warrant. The burden of proof is on the person attacking the search warrant to show by a preponderance of the evidence that false information was knowingly and intentionally used, or was included with reckless disregard for the truth, and that probable cause is lacking without this information. Also called Alfinito hearing (see, People v. Alfinito, 16 NY2d 181, 186, 211 N.E.2d 644, 264 N.Y.S.2d 243 [1965]).

Frye hearing

Frye v. United States, 293 F. 1013 (D.C. Cir. 1923), 54 A.D.C. 46, 34 ALR 145 (1923)

A hearing to determine whether a scientific procedure has gained acceptance.

Goggins hearing

People v. Goggins, 34 NY2d 163, 313 N.E.2d 41, 356 N.Y.S.2d 571 (1974)

An in camera hearing to determine whether an informant exists.

Gomberg inquiry

People v. Gomberg, 38 NY2d 307, 342 N.E.2d 550, 379 N.Y.S.2d 769 (1975)

An inquiry of defendants being jointly represented by the same attorney. The court must ascertain, on the record, whether each defendant understands the possible risks posed by joint representation and has knowingly chosen to share a lawyer with a co-defendant.

Hinton hearing

People v. Hinton, 31 NY2d 71, cert. denied, 410 US 911, 286 N.E.2d 265, 334 N.Y.S.2d 885 (1972)

A hearing to determine whether a courtroom should be closed to the public during a witness' testimony. Hinton involved an undercover officer's appearance. A demonstration of a substantial probability of danger to the officer's safety is needed. Less restrictive alternatives to full closure should be considered. See, People v. Ramos, 90 NY2d 490, 685 N.E.2d 492, 662 N.Y.S.2d 739 (1997); People v. Nieves, 90 NY2d 426, 683 N.E.2d 764, 600 N.Y.S.2d 858 (1997). This issue also arises in cases involving child witnesses and sexual assault victims. See, e.g. People v. Clemons, 78 NY2d 48, 574 N.E.2d 764, 660 N.Y.S.2d 858 (1997).

Hughes hearing

People v. Hughes, 59 NY2d 523, 453 N.E.2d 484, 466 N.Y.S.2d 255 (1983)

A hearing to determine whether a witness who has been hypnotized for the purpose of enhancing the witness' memory of the crime is competent to testify. The People have the burden of demonstrating by clear and convincing evidence that the prehypnotic recollection of witness is reliable and that the ability to cross-examine the witness has not been impaired.

Huntley hearing

People v. Huntley, 15 NY2d 72, 204 N.E.2d 179, 255 N.Y.S.2d 838 (1965)

A hearing to determine whether a defendant's statements should be suppressed.

Kastigar hearing

Kastigar v. United States, 406 US 441; 92 S.Ct. 1653 (1972)

A hearing to ensure the protection of 5th Amendment rights by making sure that when a witness is compelled to give testimony or a statement, that information is not used against the witness in a criminal prosecution. Kastigar involved a witness who was compelled to testify after being granted immunity. The government, in a later

prosecution of the witness, had the burden of showing that their evidence was not derived from the compelled testimony. Another example would be a police officer, compelled to give a statement under penalty of dismissal from the police force. See, People v. Feerick, ___ NY2d ___ (case #75, decided June 8, 1999).

Mapp hearing

Mapp v. Ohio, 367 US 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961)

A hearing to determine whether evidence seized by the police should be suppressed.

Miranda warnings

Miranda v. Arizona, 384 US 436, 86 S.Ct. 1602, 16 L.Ed.2d 694, 10 A.L.R.3d 974 (1966)

The list of rights that the police must provide and a suspect must understand and waive before giving a statement during custodial interrogation.

Molineux theory

People v. Molineux, 168 NY 264, 61 N.E. 286, 62 L.R.A. 193 (1901)

A theory that allows the People to present evidence which reveals other crimes committed by the defendant, normally not admissible unless they have a substantial probative value to prove the crime charged. The five most common examples used under this theory are evidence relevant to: 1) motive, 2) intent, 3) absence of mistake or accident, 4) a common scheme or plan, or 5) identity of the perpetrator.

Outley warnings

People v. Outley, 80 NY2d 702, 594 N.Y.S.2d 683 (1993)

Where a court at the time of a guilty plea expressly warns the defendant that the imposition of the agreed-upon sentence is conditioned upon the defendant not being arrested while released between plea and sentencing, and a defendant is then arrested, an enhanced sentence may be imposed after the defendant is given a chance to explain the circumstances of the new arrest.

Parker warnings

People v. Parker, 57 NY2d 136, 440 N.E.2d 1313, 454 N.Y.S. 967 (1982)

When a defendant fails to appear for trial, the trial may proceed in the defendant's absence only when the defendant has been previously informed by the court of the nature of the right to be present and the consequences of failing to appear. The court

must determine that the defendant's absence is deliberate (see, People v. Brooks, 75 NY2d 898, 553 N.E.2d 1328, 554 N.Y.S.2d 818 [1990]).

Payton violation

Payton v. New York, 445 US 573, 100 S.Ct. 1371, 63 L.Ed.2d 639 (1980)

The Fourth Amendment prohibits the police from making a warrantless, nonconsensual arrest by entering a person's home. A warrantless arrest at a suspect's home also violates the New York State Constitution and may lead to suppression of evidence obtained as a result of that arrest (see, People v. Harris, 77 NY2d 434, 570 N.E.2d 1051, 568 N.Y.S.2d 702 [1991]).

Rodriquez hearing

People v. Rodriquez, 79 NY2d 445, 583 NYS2d 814, 593 NE2d 268 (1992)

A hearing to determine whether an eyewitness' familiarity with the defendant rendered the identification confirmatory and thus the identification procedure was not required to be listed in a CPL 710.30 notice.

Rosario material

People v. Rosario, 9 NY2d 286, cert. denied 386 US 866, 173 N.E.2d 881, 213 N.Y.S.2d 448, 7 A.L.R.3d 174 (1961)

The People are required to provide to the defendant any recorded statement of a prosecution witness (including police officer notes) related to the witness' testimony (see, CPL §240.45[1][a]).

Sandoval hearing

People v. Sandoval, 34 NY2d 371, 314 N.E.2d 413, 357 N.Y.S.2d 849 (1974)

A hearing usually held just prior to jury selection to determine what prior crimes or bad acts may be brought out on cross-examination of the defendant, should the defendant choose to testify (see CPL §240.43).

Singer hearing

People v. Singer, 44 NY2d 241, 376 N.E.2d 179, 405 N.Y.S.2d 17 (1978)

A hearing to determine whether a delay in prosecution violates due process.

Sirois hearing

Matter of Holtzman v. Hellenbrand, 92 AD2d 405, 460 N.Y.S.2d 591 (1983)

A hearing to determine whether to allow prior testimony of the witness to be received because a defendant's misconduct caused a witness to refuse to testify, or become available to testify. The People must show by clear and convincing evidence that the defendant's misconduct caused the witness' unavailability. See, People v. Geraci, 85 NY2d 359, 649 N.E.2d 817, 625 N.Y.S.2d 469 (1995).

Terry stop & frisk

Terry v. Ohio, 392 US 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968)

A frisk of a person not under arrest, allowed where there is reasonable suspicion that the person is involved in criminal activity and the frisk is needed for officer safety.

Trowbridge error

People v. Trowbridge, 305 NY 471, 113 N.E.2d 841 (1953)

Improper bolstering by a witness who testifies to observing another person make an identification, such as a police officer testifying at trial that the eyewitness identified the defendant during a show-up.

Van Sickle letter

People v. Van Sickle, 13 NY2d 61, 192 N.E.2d 9, 242 N.Y.S.2d 34 (1963)

A letter from a District Attorney to another agency or a Town Attorney authorizing that agency to prosecute certain cases, such as animal control laws.

Ventimiglia hearing

People v. Ventimiglia, 52 NY2d 350, 420 N.E.2d 59, 438 N.Y.S.2d 261 (1981)

A prosecutor must obtain a ruling from the trial judge before presenting evidence of uncharged crimes. This is done in an offer of proof or by presenting testimony outside the presence of the jury.

Wade hearing

United States v. Wade, 388 US 218, 87 S.Ct. 1926, 18 L.Ed.2d 1149 (1967)

A hearing to determine whether identification evidence should be suppressed after a post-charge line-up is held, on right to counsel grounds (often used, or misused, to apply to all identification hearings).