

SUPREME COURT OF NEW JERSEY
September Term 2020
085288

State of New Jersey,

Plaintiffs,

v.

O R D E R

Omar Vega-Larregui,

Defendant.

This matter having been opened to the Superior Court, Law Division, County of Mercer, on defendant's motion to dismiss the indictment returned against him (MER-20-07-0221-I); and

Defendant having articulated, among other challenges to the indictment, a constitutional challenge to the Grand Jury proceedings that were conducted remotely pursuant to the Virtual Grand Jury Program, as authorized by the Supreme Court's order dated May 14, 2020, and modified by subsequent orders; and

The Association of Criminal Defense Lawyers of New Jersey (ACDL), having submitted a brief in support of defendant's motion in which it seeks, from the Superior Court, a finding that the Supreme Court exceeded its rule-making authority in authorizing the Virtual Grand Jury Program and "an

immediate, statewide moratorium on the use of virtual Grand Juries until such time as the issues presented herein have been fully and finally litigated through the appellate process,” which requests for relief exceed what the Superior Court could order;

It is ORDERED that the motion to dismiss pending before the Superior Court, Law Division, County of Mercer is certified directly pursuant to Rule 2:12-1 for review by the Supreme Court, limited to defendant’s constitutional challenge to the indictment returned by a Grand Jury proceeding that was conducted remotely, and related prayers for relief. Defendant’s motion to dismiss on other grounds (e.g., defendant’s challenge to the State’s presentation of certain evidence), and any other motion(s), including defendant’s motion to suppress, remain pending in the Superior Court, which court shall retain jurisdiction to consider those matters.

It is further ORDERED that the motion to dismiss based on defendant’s challenge to the Virtual Grand Jury Program shall be deemed pending in the Supreme Court, and further proceedings on that issue shall be conducted in accordance with the following expedited, peremptory schedule and any further instructions of the Clerk of the Court:

- Defendant shall file a brief on or before 4:30 p.m. on January 27, 2021. The ACDL, as amicus, shall also file its amicus brief to the

Supreme Court on or before 4:30 p.m. on January 27, 2021.

- The State shall file briefs responsive to defendant and the ACDL on or before 4:30 p.m. on February 10, 2021. The Office of the Attorney General is hereby granted leave to participate, and shall file an amicus brief on or before 4:30 p.m. on February 10, 2021.
- Defendant shall file briefs in reply to the State and in response to the Office of the Attorney General on or before 4:30 p.m. on February 17, 2021.
- Should additional entities wish to participate as amici curiae, motions for leave to participate and proposed amicus curiae briefs must be served on or before 4:30 p.m. on February 10, 2021. The State and defendant may file answers opposing any such motions for leave to participate, together with response briefs to the merits of the proposed amicus curiae briefs, on or before February 24, 2021.

No further submissions shall be accepted without leave of Court.

It is further ORDERED that the matter shall be set down for oral argument for the session of March 15-16, 2021. The ACDL and the Office of the Attorney General are granted leave to appear at oral argument.

For the Court,

A handwritten signature in blue ink, appearing to read "Stuart Rabner", written in a cursive style.

Chief Justice Stuart Rabner