

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF THE BRONX; PART 17

-----X  
IN THE MATTER OF SANDY P.,  
Petitioner,

-against-

Index No. 931/06

HON. ROBERT T. JOHNSON, AS  
DISTRICT ATTORNEY OF BRONX COUNTY,

Respondent.

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ROBERT G. SEEWALD, J.:

Petitioner's motion to vacate an unsealing order [dated 3/23/06] issued by this Court is granted (see Matter of Katherine B v Cataldo, 5 NY3d 196 [2005]).

According to the petitioner's moving papers, she was arrested on May 11, 2005. Two months later, on July 13<sup>th</sup>, the Grand Jury dismissed all charges.

Petitioner's landlord subsequently instituted a holdover proceeding against the petitioner in the Housing Part of Civil Court, Bronx County [under index # 53858/05].

Anticipating that the petitioner's testimony at the pending holdover proceeding will be contrary to her Grand Jury testimony, the respondent opposes the petitioner's application, so that he can furnish a transcript of petitioner's Grand Jury testimony to the petitioner-landlord in the holdover proceeding, thus enabling the latter party to use said transcript for impeachment purposes.

The applicable statute, of course, is CPL § 160.50. In the recently decided case of Matter of Katherine B v Cataldo (5 NY3d 196, *supra*), the Court of Appeals noted, *inter alia*, that "[t]he statute's provisions strongly suggest that its primary focus is the unsealing of records for investigatory purposes" (*id.* at 205).

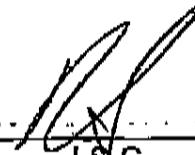
Consequently, it is now clear that the People may not properly obtain an unsealing order for the release of Grand Jury testimony previously sealed pursuant to CPL § 160.50 - so that it can thereafter transmit said testimony to the landlord who has initiated a holdover proceeding against the person whose case had previously been dismissed by the Grand Jury.

That branch of the petitioner's motion to prohibit the Office of the Bronx County District Attorney from disclosing, publishing or in anyway disseminating the transcript of the petitioner's Grand Jury testimony - or any other records clearly within the ambit of CPL § 160.50 - is granted for the reasons stated above.

However, that branch of the petitioner's motion to compel the respondent to destroy all copies of the petitioner's Grand Jury testimony is denied for the reasons stated by the Appellate Division in Matter of Catterson v Corso (244 AD2d 407 [2<sup>nd</sup> Dept 1997], appeal dismissed 92 NY2d 828). In this regard, the Court's decision sealing petitioner's Grand Jury testimony does not, of course, grant the petitioner a license to testify falsely in the pending holdover proceeding.

Settle order.

Dated: April 24, 2006

  
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J.S.C.