



NEWS RELEASE

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DISMISSAL OF STATE V. KERI BARRY

PATERSON, NEW JERSEY:

December 16, 2019

Passaic County Prosecutor Camelia M. Valdes announced today that the Office has moved to dismiss the matter of State v. Keri Barry.

The decision to dismiss the charges was made after consideration of the recent Appellate Division opinion affirming the prior decision of the Honorable Joseph A. Portelli, J.S.C., suppressing critical evidence necessary to sustain the charges. The Supreme Court denied the State's final motion for leave to appeal on December 2, 2019, exhausting the State's avenues for appeal. Without the use of the evidence deemed inadmissible by Judge Portelli's ruling, the State cannot sustain its burden of proof with respect to each element of each offense, thus a dismissal is required.

On December 11, 2009, the defendant was admitted at a local hospital with abdominal pain and symptoms consistent with recent childbirth or miscarriage. At the hospital medical personnel discovered the defendant had in fact given birth, and alerted the police that there was no indication of the whereabouts of the child. During the subsequent investigation police recovered a plastic bag at the defendant's home which contained the deceased body of a full term baby boy. An autopsy later determined the baby had in fact been born alive. The defendant was eventually charged with Murder and Endangering the Welfare of a Child.

During preparation for trial, the defendant filed motions to suppress the evidence seized from her home, and all of the evidence derived from its recovery. Judge Portelli granted the defendant's motion, precluding the State's use of that evidence at trial, including the body. Judge Portelli ruled that search of the defendant's home did not comply with the requirements for warrantless searches and therefore the evidence could not be used at trial.

The Passaic County Prosecutor's Office has aggressively pursued its legal right to appeal the decision of Judge Portelli to suppress the evidence in this case. While we respectfully disagree with Judge Portelli's ruling, and with the Appellate Division's decision, we of course respect the opinions and the process that produced those outcomes.

In sum, the Passaic County Prosecutor's Office has determined that, considering the totality of the circumstances, the dismissal of the charges is required.

For media inquiries concerning this case, contact Chief Assistant Prosecutor Jason Statuto of the Passaic County Prosecutor's Office at jstatuto@passaiccountynj.org or at (973) 837-7733.