

SHORT FORM ORDER

**SUPREME COURT - STATE OF NEW YORK
COUNTY OF NASSAU**

Present:

Hon. Thomas Feinman
Justice

MATTHEW T. ROBERTS,

Plaintiff,

- against -

DILIP NAGENDRA,

Defendants.

TRIAL/IAS PART 20
NASSAU COUNTY

INDEX NO. 9429/07

MOTION SUBMISSION
DATE: 7/1/08

MOTION SEQUENCE
NO. 1

The following papers read on this motion:

Notice of Motion and Affidavits.....	<u>X</u>
Affirmation in Opposition.....	<u>N/A</u>
Reply Affirmation.....	<u>N/A</u>

The plaintiff's unopposed motion for an order to have the criminal files of the defendant, Dilip Nagendra, unsealed for an *in camera* inspection of the Grand Jury proceedings and related dispositions is denied.

The plaintiff provides that the instant action is an assault action. The defendant, Dilip Nagendra, was apparently charged with PL §120.05, Assault with a Deadly Weapon, (a wooden boomerang type stick), whereby the Grand Jury dismissed the charges against the defendant on June 22, 2007.

Criminal Procedure Law (CPL) §160.50 states, in pertinent part, that upon the termination of a criminal action or proceeding against a person in favor of such person, the record of such action or proceeding shall be sealed. CPL §160.50(1)(d) (i)-(vi) provides six enumerated categories of law enforcement related persons or agencies, other than the accused, who have standing to request that the sealed records become available.

Here, the movant does not fall within the statutory exceptions provided under CPL §160.50, and the movant has not provided a waiver of unsealing by the accused. The movant is not among the specific parties or institutions listed in CPL §160.5(1)(d) as entitled to obtain a copy of a sealed criminal record. (*Wilson v. City of New York*, 240 AD2d 266). Additionally, the movant has not

demonstrated a “compelling need” or “extra ordinary circumstances”. (*Id.*) Furthermore, the movant has not asserted or demonstrated that the information sought was not available by other means. (*Matter of Joseph M. v. New York City Board of Education*, 82 NY2d 128).

In light of the foregoing, the motion is denied.

ENTER:

ENTERED

J.S.C.

Dated: July 22, 2008

cc: Hirsch & Hirsch, LLP
Law Offices of Vivek Suri

JUL 24 2008

NASSAU COUNTY
COUNTY CLERK'S OFFICE