



## PEOPLE STATE NEW YORK v. CLEVELAND DILLARD

554 N.Y.S.2d 31 (1990) | Cited 0 times | New York Supreme Court | April 17, 1990

A defendant has the right to testify before the Grand Jury if he gives written notice of his intention before an indictment has been filed against him (see, CPL 190.50 [5] [a]; *People v Skrine*, 125 A.D.2d 507, 508). It is disputed whether defendant gave oral notice at his arraignment of his intention to testify before the Grand Jury. Before the next court date, when defendant made an undisputed oral request to testify, a Grand Jury voted a true bill charging defendant, but it had not yet been filed. After defendant testified before the same Grand Jury that had initially voted to indict him, the Grand Jury revoted and returned a true bill which subsequently resulted in the filing of an indictment.

After a Grand Jury has voted a true bill which has not been filed as an indictment, the People may return to the same Grand Jury to introduce additional evidence and allow them to vote a second time (*People v Cade*, 74 N.Y.2d 410, 415). "The prosecutor might, for example, supplement the evidence to being additional or higher charges, to introduce exculpatory material (citation omitted), or to allow a defendant the opportunity to testify" (*People v Cade*, supra, at 417; see also, *People v Young*, 138 A.D.2d 764). Accordingly, the Grand jury proceedings herein were not defective.

Order filed.

Kupferman, J.P., Ross, Asch, Kassal, Wallach, JJ.

