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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 259 SSM 38
The People &c.,
Respondent,
v.
Ariel Myers,
Appellant.

Submitted by Eugene P. Grimmick, for appellant.
Submitted by Roman Griffith, for respondent.

MEMORANDUM:

The order of the Appellate Division should be reversed
and a new trial ordered.

Under the facts of this case, the admission of evidence of an uncharged crime allegedly committed by defendant for the purpose of establishing defendant's identity constituted an abuse of discretion (see People v Robinson, 68 NY2d 541, 549-550 [1986]; People v Molineux, 168 NY 264, 293 [1901]). Because the evidence of defendant's guilt is not overwhelming, the error is not harmless.

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On review of submissions pursuant to section 500.11 of the Rules, order reversed and a new trial ordered, in a memorandum. Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

Decided December 12, 2013