

**People v Mead**

2016 NY Slip Op 33025(U)

March 15, 2016

County Court, Orange County

Docket Number: 0140/2016

Judge: Robert H. Freehill

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**ORIGINAL**

COUNTY COURT OF THE STATE OF NEW YORK  
COUNTY OF ORANGE

-----X

THE PEOPLE OF THE STATE OF NEW YORK

Indictment No. 2015-676

-against-

Index No. 0140/2016

MICHAEL MEAD,

**DECISION AND ORDER**

Defendant.

-----X

FREEHILL, ROBERT H., J.C.C.

Defendant is charged in this indictment with the crimes of Criminal Sale of a Controlled Substance in the Third Degree and Criminal Possession of a Controlled Substance in the Third Degree.

By this omnibus motion the defendant has moved for certain pretrial relief which the Court decides, having considered: 1.) the defendant's notice of motion and affirmation; 2.) the People's affirmation in response; and 3.) the transcript of Grand Jury proceedings.

Request For Bill of Particulars

The defendant's motion for the particulars sought is granted to the extent provided by the District Attorney in the Voluntary Disclosure Form previously tendered and as provided in the affirmation in response to the motion herein. In all other respects this branch of defendant's motion is denied.

Motion for Discovery and Inspection  
Motion for Production of People's Witnesses

The defendant's motion for discovery and inspection is granted to the extent information has been provided to the defendant in the Voluntary Disclosure Form and as set forth in the

[\* 2]

People's affirmation in response. The names and addresses of People's witnesses will not be ordered to be disclosed early (CPL 240.45). In all other respects, this branch of defendant's motion is denied.

Motion to Be Provided with *Brady* Material

The motion is granted to the extent that the District Attorney is directed to disclose to defendant's attorney any and all documents, materials and/or information, if any, required to be disclosed pursuant to *Brady v Maryland*, 373 US 83.

Motion for a *Sandoval* Ruling

The motion is granted to the extent that a hearing is hereby ordered which will be held immediately prior to trial to determine which, if any, bad acts or convictions may be used as impeachment in the event that the defendant elects to testify at trial. The Court further orders the District Attorney to disclose to defendant's attorney any and all bad acts and convictions which will be used to impeach defendant three days prior to the commencement of trial in accordance with CPL §240.43.

Motion Pursuant to *Ventimiglia/Molineux*

The motion is granted to the extent that a hearing is hereby ordered which will be held immediately prior to trial to determine which, if any, bad acts or convictions may be used as evidence in the People's case. The Court further orders the District Attorney to disclose to defendant's attorney any and all acts and convictions which he intends to present during its direct case.

[\* 3]

Motion to Inspect Grand Jury Minutes  
Motion to Dismiss or Reduce Indictment

The motion is granted to the extent that the Court has reviewed the minutes of the Grand Jury and finds that the indictment is based upon legally sufficient evidence and that the Grand Jury was properly instructed with respect to the applicable law.

Motion to Suppress Statements

The People did not serve a CPL 710.30 notice and the People may not introduce statements that require notice pursuant to CPL 710.30. At trial the People may introduce statements made during the course of the criminal transaction and any statement that does not require notice.

Motion to Suppress Physical Evidence

The People state that no property was obtained from defendant during his arrest. Accordingly, a hearing pursuant to CPL §710.60(4) to determine the admissibility of any physical evidence allegedly seized from defendant is not necessary and defendant's motion is denied.

Motion to Suppress Identification Testimony

Defendant moves to suppress in-court identification testimony of an undercover narcotics police officer concerning the identification of the defendant as the person who sold drugs to him. According to the affirmation submitted by the People in response to this motion, the viewing of defendant by an undercover narcotics officer "occurred at a place and time sufficiently connected and contemporaneous to the arrest itself as to constitute the ordinary and proper completion of an integral police procedure." (*People v Wharton*, 74 NY2d 921 [1989]; *People v Adio*, 111 AD3d 757 [2d Dept 2013]; *People v Harrell*, 208 AD2d 647 [2nd Dept 1994]). Here, the alleged

transaction occurred at 1:49 p.m. and the defendant was identified from a single photo identification procedure occurred at 2:17 p.m. This prompt confirmatory viewing is not an identification procedure which warrants a *Wade* hearing (*People v Allen*, 162 AD2d 538 [2nd Dept 1990]).

Motion to Request Timely Hearings

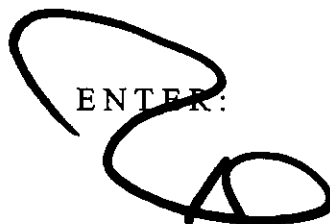
Defendant requests that any pretrial hearings be held sufficiently prior to the time of the commencement of trial so as to allow for the transcription of the hearing minutes for use by the defendant at trial. Unless such request for transcribed minutes is withdrawn by defendant's counsel at the conclusion of any such pretrial hearing, this Court will deem defendant's request herein as one made in a timely fashion and any necessary and reasonable adjournment of trial proceedings for the purpose of transcribing hearing minutes will be granted as deemed necessary by the Court (*People v Peacock*, 31 N.Y.2d 907 [1972]).

Renewal of Motions

Defendant's blanket request for leave to make further motions is denied with leave to renew within the context of a further motion seeking specific relief.

The foregoing constitutes the Decision and Order of the Court.

Dated: Goshen, New York  
March 15, 2016

ENTER:  


HON. ROBERT H. FREEHILL  
County Court Judge