

**People v Mimms**

2017 NY Slip Op 33272(U)

September 19, 2017

County Court, Orange County

Docket Number: 3718/17

Judge: Nicholas DeRosa

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This opinion is uncorrected and not selected for official publication.

**ORIGINAL**

COUNTY COURT : ORANGE COUNTY  
STATE OF NEW YORK

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THE PEOPLE OF THE STATE OF NEW YORK,

-against-

IND. NO. 2017-349  
INDEX NO. 3718/17

CARL MIMMS,

**DECISION AND ORDER**

Defendant.

-----X

DE ROSA, N.

Defendant is charged in this indictment with the crimes of **Criminal Possession of a Controlled Substance in the Third Degree**, a Class B Felony, in violation of §220.16(1); **Criminal Possession of a Controlled Substance in the Fourth Degree**, a Class C Felony, in violation of §220.09 and **Criminal Possession of Marijuana in the Fifth Degree**, A Class A Misdemeanor, in violation of §221.10(2) of the Penal Law of the State of New York.

Defendant has moved for certain pre-trial relief which the Court, having considered: 1) the defendant's notice of motion and affirmation, submitted by David A. Lindine, Esq., Legal Aid Society of Orange County, Inc. 2) the People's affirmation in response, submitted by Lorri B. Goldberg, Esq., Senior Assistant District Attorney, Orange County District Attorney's Office, and 3) the transcript of Grand Jury proceedings, decides as follows.

[\* 2]

**MOTION TO INSPECT GRAND JURY MINUTES**

Defendant's motion is granted to the extent that the Court has reviewed the minutes of the Grand Jury *in camera*. The Court finds that release of the minutes is not necessary to the determination of this motion. The Court further 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 FOR DISCOVERY AND INSPECTION**

Defendant's motion is granted to the extent that the information was previously provided or inspection was consented to in the People's Voluntary Disclosure Form and/or Affirmation in Response. In all other respects, defendant's application is denied.

**MOTION FOR BRADY MATERIAL**

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

**MOTION TO SUPPRESS STATEMENTS**

Defendant's motion is granted to the extent that a hearing is hereby ordered on the issue of the voluntariness of any statement made to law enforcement personnel as well as on any issues relating to the legality of defendant's arrest and

[\* 5]  
detention.

**MOTION TO SUPPRESS PHYSICAL EVIDENCE**

Defendant's motion is granted to the extent that a hearing is hereby ordered pursuant to CPL Section 710.60(4) to determine the admissibility of any physical evidence seized.

**MOTION FOR A SANDOVAL AND VENTIMIGLIA HEARING**

Defendant's motion is granted to the extent that a hearing is hereby ordered which will be held 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 will also order a hearing to determine, which, if any, bad acts or convictions may be used as evidence in the People's direct case. The District Attorney is ordered to disclose, in accordance with CPL Section 240.43, any and all acts which he intends to use for purposes of impeaching defendant at trial, as well as any and all acts and/or convictions to be presented as evidence in chief.

**CONFERENCE/HEARING DATE**


This matter is scheduled for a pre-trial hearing to be held on September 28, 2017. All parties are directed to be present.

[\* 4]

The foregoing constitutes the Decision and Order of the  
Court.

Dated: Goshen, New York  
September 19, 2017

E N T E R.



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HON. NICHOLAS DE ROSA  
COUNTY COURT JUDGE

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