

**People v Mercado**

2017 NY Slip Op 33277(U)

August 31, 2017

County Court, Orange County

Docket Number: 2017-370

Judge: Robert H. Freehill

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This opinion is uncorrected and not selected for official publication.

COUNTY COURT OF THE STATE OF NEW YORK  
COUNTY OF ORANGE

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THE PEOPLE OF THE STATE OF NEW YORK

-against-

JONATHAN MERCADO,

Defendant.

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

Indictment No. 2017-370

Index No. 3893/2017

**DECISION AND ORDER**

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

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 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.

[\* 2]

Motion for an Order Directing the Preservation of Rosario Material

The People are required to preserve and to disclose Rosario material at the appropriate time by law (CPL 240.45[1]). Because the failure to preserve and/or disclose Rosario may result in sanctions from the Court, no order is required at this time.

Motion Pursuant to *Geaslen*

The motion is granted to the extent that the District Attorney is ordered to provide to defendant's attorney, within five (5) days from the date of the notice of entry of this order, any information required to be disclosed pursuant to *People v Geaslen*, 54 NY2d 510.

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.

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

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 People's affirmation in response. In all other respects, this branch of defendant's motion is denied.

#### Motion to Suppress Physical Evidence

The motion is granted to the extent that a hearing is hereby ordered pursuant to CPL §710.60(4) to determine the admissibility of any physical evidence allegedly seized from defendant.

#### Motion to Preclude Statements

Defendant's motion to preclude the introduction of statements is denied with leave to renew in the event the People seek to admit evidence of unnoticed statements.

#### Motion to Suppress Statements

The motion is granted to the extent that a hearing is hereby ordered pursuant to CPL 710.60(4) to determine the admissibility of any statements allegedly made by the defendant.

#### Motion to Request Timely Hearings

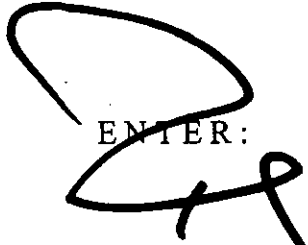
Defendant requests that any pretrial hearings be held sufficiently prior to the time of the commencement of trial so as to allow for the transcription of the hearing minutes for use by the defendant at trial. Unless such request for transcribed minutes is withdrawn by defendant's counsel at the conclusion 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  
August 31, 2017



ENTER:

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HON. ROBERT M. FREEHILL  
County Court Judge

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