

**People v Blair**

2022 NY Slip Op 34862(U)

October 4, 2022

Supreme Court, Westchester County

Docket Number: Ind. No. 22-71278-01

Judge: Robert A. Neary

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ON 10-4-2022  
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COUNTY CLERK**

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**OCT 04 2022**

**TIMOTHY C. IDONI  
COUNTY CLERK**

**SUPREME COURT OF THE COUNTY OF WESTCHESTER  
COUNTY OF WESTCHESTER**

-----X  
THE PEOPLE OF THE STATE OF NEW YORK

- against -

TONY BLAIR,

Defendant.

-----X  
NEARY, J.

DECISION AND ORDER

Ind. No. 22-71278-01

The defendant, Tony Blair, has been charged with the crimes of Criminal Sale of a Controlled Substance in the Third Degree (two counts). The defendant has made an omnibus motion which consists of a Notice of Motion and an Affirmation in support thereof. In response, the People have filed an Affirmation in Opposition together with a Memorandum of Law. Having read all of the submitted papers and reviewed the court file, this Court makes the following determination.

A. ORDER INSPECTING THE GRAND JURY MINUTES AND DISMISSING THE INDICTMENT PURSUANT TO CPL SECTIONS 210.20 AND 210.30

The defendant's motion to inspect the Grand Jury minutes is granted. Upon an *in camera* inspection of the Grand Jury minutes by Court, the motion to dismiss the indictment or reduce a charged offense in the indictment is denied.

The Court has reviewed the minutes of the proceeding before the Grand Jury. The Grand Jury was properly instructed (see *People v. Calbud*, 49 NY2d 389, 426 NYS2d 389, 402 NE2d 1140 and *People v. Valles*, 62 NY2d 36, 476 NYS2d 50, 464 NE2d 418) and the evidence presented, if accepted as true would be legally sufficient to establish every element of the offenses charged. [See CPL §210.30(2)]. In addition, the minutes reveal that a quorum of the grand jurors was present during the presentation of evidence and at the time the district attorney instructed the Grand Jury on the law, and that it was instructed that only those grand jurors who had heard all the evidence could participate in voting on the matter.

The Court does not find that the release of the Grand Jury minutes or certain portions thereof to the parties was necessary to assist the Court in making this determination.

B. ORDER SUPPRESSING THE USE IN EVIDENCE OF STATEMENTS ALLEGEDLY MADE BY THE DEFENDANT PURSUANT TO CPL SECTIONS 710.20 AND 710.30

This branch of the defendant's motion is denied as moot as the People have not noticed any statements made by the defendant pursuant to CPL.

C. ORDER SUPPRESSING THE USE IN EVIDENCE OF PHYSICAL EVIDENCE AND STATEMENTS MADE BY THE DEFENDANT ON THE GROUNDS THAT SUCH VIOLATED THE RULE IN *DUNAWAY V. NEW YORK*

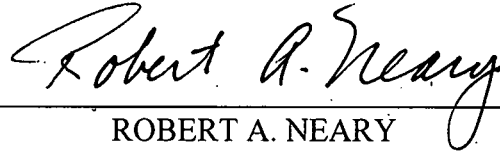
This branch of the defendant's motion is summarily denied as the only physical evidence in question consists of the alleged cocaine which was voluntarily handed to an undercover police officer during the course of a narcotics transaction and as such is not subject to suppression as it was not obtained from a search of the defendant's person. [See *Mapp v. Ohio*, 367 US 643, 81 S Ct. 1684, 6 LE2d 1081].

D. and E. ORDER SUPPRESSING THE PEOPLE FROM CROSS-EXAMINING THE DEFENDANT AS TO ANY PRIOR CONVICTIONS, OR ANY VICIOUS, IMMORAL OR BAD ACTS and REQUEST PURSUANT TO CPL SECTION 240.43

Immediately prior to commencement of jury selection, the prosecutor shall, upon request of the defendant, notify the defendant of any prior criminal act which the People seek to use in the cross-examination of the defendant as well as all specific instances of the defendant's prior uncharged criminal, vicious or immoral conduct of which the prosecutor has knowledge and which the prosecutor intends to use at trial for the purposes of impeaching the credibility of the defendant. Thereafter, upon the defendant's request, the trial court shall conduct a *Sandoval* and/or *Ventimiglia* hearing prior to the commencement of trial. [See *People v. Sandoval*, 34 NY2d 371 (1974); *People v. Ventimiglia*, 52 NY2d 350 (1981); *People v. Molineux*, 168 NY 264 (1901)].

This constitutes the opinion, decision and order of this Court.

Dated: White Plains, New York  
October 4, 2022



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ROBERT A. NEARY  
SUPREME COURT JUSTICE

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