

IN THE CRIMINAL COURT OF HAMILTON COUNTY, TENNESSEE

STATE OF TENNESSEE,)	
)	
<i>Plaintiff,</i>)	SECOND DIVISION
)	
vs.)	NO(s).
)	304485 / 305649 (Cannon);
ARTERIUS ALLEN, ET AL.)	304516 / 305681 (Shelton);
)	304518 / 305683 (Sims, Cortez).
<i>Defendants.</i>)	

ORDER REGARDING PENDING MOTIONS TO DISMISS

This matter came before the Court upon its own motion following procedural developments occurring in this case. On August 14, 2018, the Hamilton County Grand Jury returned a superseding presentment related to this case, and on August 21, 2018, the State moved to dismiss this case in light of the superseding presentment. This motion was granted by separate order of this Court entered on August 22, 2018.

Currently pending in this case, however, are motions to dismiss previously addressed, at least in part, by the Court, including the following:

- Mr. Cannon’s Motion No. 7;
- Mr. Shelton’s Motion No. 1; and
- Mr. Sims’s Motion No. 5.

In general, each of these motions to dismiss challenge the original *Allen* presentment, and their arguments principally analyze and relate to the absence of factual allegations that the parties assert are important and necessary to state an offense.

Upon examination by the Court, the superseding presentment alleges additional facts, charges, and information that may substantially affect whether, and how, these types of fact-dependent motions are litigated. Although similar arguments, *possibly*, could be raised with respect to the superseding indictment, the Court does not believe that the original arguments *necessarily* affect the superseding presentment in the same way as originally alleged. As such, the effect of the State’s dismissal of the original cases may render, and likely does render, the originally filed motions moot.

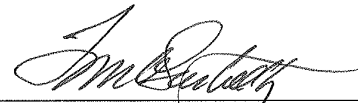
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Accordingly, on its own motion, the Court hereby **ORDERS** as follows:

1. The Court respectfully **DENIES** the following motions to dismiss, without prejudice, as having been rendered moot by the dismissals of Case Nos. 304485 (Cannon); 304516 (Shelton); 304518 (Cortez Sims):
 - a. Mr. Cannon's Motion No. 7;
 - b. Mr. Shelton's Motion No. 1; and
 - c. Mr. Sims's Motion No. 5.
2. If the parties believe that similar issues exist with respect to the allegations of the superseding presentment in Cases Nos. 305649 (Cannon); 305681 (Shelton); and 305683 (Sims, Cortez), respectively, the parties may refile motions addressed to the allegations of that superseding presentment.
3. As previously noted by the Court, Cortez Sims Motion Nos. 7 and 8 raise issues of law that are, or likely may be, applicable to the superseding presentment. As such, the Court believes that these motions have not been rendered moot by the superseding presentment and that the issues raised remain ripe for adjudication. Accordingly,
 - a. Cortez Sims Motion Nos. 7 and 8 filed in Case No. 304518 shall be docketed in *State v. Sims*, Case No. 305683, as well as in all superseding cases in which parties have joined these motions by timely filed notice.
 - b. Cortez Sims Motion Nos. 7 and 8 shall be scheduled for hearing on **October 30, 2018**.
 - c. The State is requested to file written responses to Cortez Sims Motion Nos. 7 and 8 no later than **October 1, 2018**.
 - d. The Court's Order shall apply to all cases in which a notice of joinder was timely filed.

It is so ordered.

Enter, this the 22^d day of August, 2018.



TOM GREENHOLTZ, Judge