

---

---

This memorandum is uncorrected and subject to revision before  
publication in the New York Reports.

---

No. 116  
The People &c.,  
Respondent,  
v.  
Leroy Savage Smith,  
Appellant.

Philip Rothschild, for appellant.  
James P. Maxwell, for respondent.  
New York Civil Liberties Union, amicus curiae.

MEMORANDUM:

The order of the Appellate Division should be reversed  
and a new trial ordered.

Following a jury trial, defendant was convicted of  
assault in the first degree and criminal possession of a weapon

in the fourth degree and sentenced. The Appellate Division unanimously affirmed the judgment (see People v Smith, 140 AD3d 1699 [4th Dept 2016]).

We agree with defendant that the trial court failed to adequately inquire into his "seemingly serious request[]" to substitute counsel (see People v Sides, 75 NY2d 822, 824 [1990]). Defendant's request was supported by "specific factual allegations of 'serious complaints about counsel'" (People v Porto, 16 NY3d 93, 100 [2010], quoting People v Medina, 44 NY2d 199, 207 [1978]), and a "minimal inquiry" into "the nature of the disagreement or its potential for resolution" was warranted (Sides, 75 NY2d at 825). Accordingly, the trial court abused its discretion by failing to conduct such an inquiry.

\* \* \* \* \*

Order reversed and a new trial ordered, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

Decided November 21, 2017