

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D12770
W/cb

_____AD3d_____

Argued - October 26, 2006

STEPHEN G. CRANE, J.P.
REINALDO E. RIVERA
GABRIEL M. KRAUSMAN
ANITA FLORIO, JJ.

2005-11109

DECISION & ORDER

The People, etc., appellant,
v Kevin Brown, respondent.

(Ind. No. 8004/01)

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Solomon Neubort of counsel), for appellant.

Cheryl Charles Duval, Brooklyn, N.Y., for respondent.

Appeal by the People from an order of the Supreme Court, Kings County (Mangano, Jr., J.), dated October 26, 2005, which granted the defendant's motion to dismiss the indictment pursuant to CPL 30.30. Justice Crane has been substituted for former Justice Adams (*see* 22 NYCRR 670.1[c])

ORDERED that the order is reversed, on the law, the defendant's motion to dismiss the indictment pursuant to CPL 30.30 is denied as academic, and the indictment is reinstated.

In light of our determination in *People v Brown* (_____AD3d_____) [Appellate Division Docket No. 2005-04152, decided herewith], reinstating the defendant's conviction upon his plea of guilty, the defendant's motion to dismiss the indictment pursuant to CPL 30.30, based upon delay following the Supreme Court's vacatur of his judgment of conviction on June 8, 2004, has been rendered academic.

CRANE, J.P., RIVERA, KRAUSMAN and FLORIO, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

April 10, 2007

PEOPLE v BROWN, KEVIN