

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

D15890
C/hu

_____AD3d_____

Argued - June 7, 2007

REINALDO E. RIVERA, J.P.
GABRIEL M. KRAUSMAN
PETER B. SKELOS
RUTH C. BALKIN, JJ.

2006-05761

DECISION & ORDER

The People, etc., respondent,
v M. R. (Anonymous), appellant.

(Ind. No. 1086/05)

Law Office of Ferzola and Kommor, LLP, Westbury, N.Y. (Steven D. Kommor of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Nicoletta J. Caferri, and Laura T. Ross of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Buchter, J.), rendered May 22, 2006, convicting him of promoting gambling in the first degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

“The power to dismiss an indictment in the interest of justice should be exercised sparingly, in those rare cases where there is a ‘compelling factor’ which clearly demonstrates that prosecution of the indictment would be an injustice” (*People v Anthony C.*, 269 AD2d 402, 402, quoting CPL 210.40[1]; *People v Flemming*, 291 AD2d 506; *People v Crespo*, 244 AD2d 563, 564). There was no such compelling factor present in this case. Accordingly, the Supreme Court properly denied the defendant’s motion to dismiss the indictment in the interest of justice.

RIVERA, J.P., KRAUSMAN, SKELOS and BALKIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

September 25, 2007

PEOPLE v R. (ANONYMOUS), M.