

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

D32166
H/prt

_____AD3d_____

Argued - February 16, 2010

WILLIAM F. MASTRO, J.P.
JOHN M. LEVENTHAL
PLUMMER E. LOTT
LEONARD B. AUSTIN, JJ.

2009-03484

DECISION & ORDER

The People, etc., respondent,
v Robert Franov, appellant.

(Ind. No. 3444/06)

Anthony V. Lombardino, Richmond Hill, N.Y. (Judah Maltz of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano and Linda Cantoni of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Holder, J.), rendered April 2, 2009, convicting him of unauthorized use of a vehicle in the second degree, criminal mischief in the third degree, possession of burglar's tools, and criminal possession of stolen property in the fifth degree, upon a jury verdict, and imposing sentence. By decision and order dated March 16, 2010, this Court modified the judgment, on the law, by vacating the conviction of unauthorized use of a vehicle in the second degree, vacating the sentence imposed thereon, and dismissing that count of the indictment (*see People v Franov*, 71 AD3d 914). On May 10, 2011, the Court of Appeals reversed the order of this Court and remitted the matter for consideration of the facts pursuant to CPL 470.25(2)(d) and 470.40(2)(b) (*see People v Franov*, 17 NY3d 58).

ORDERED that the judgment is affirmed.

The matter having been remitted to us for further proceedings in accordance with CPL 470.25(2)(d) and 470.40(2)(b), the facts have been considered and are determined to have been

August 2, 2011

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established.

MASTRO, J.P., LEVENTHAL, LOTT and AUSTIN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive style with a large, prominent initial "M".

Matthew G. Kiernan
Clerk of the Court