

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

D32900
O/prt

_____AD3d_____

Submitted - October 28, 2011

WILLIAM F. MASTRO, J.P.
CHERYL E. CHAMBERS
SANDRA L. SGROI
ROBERT J. MILLER, JJ.

2008-09629

DECISION & ORDER

The People, etc., respondent,
v Vernal Branker, also known as
Kareem Hedge, appellant.

(Ind. No. 723/03)

Lynn W. L. Fahey, New York, N.Y. (Barry Stendig of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano,
Sharon Y. Brodt, and Rebecca Kramer of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Cooperman, J.), rendered October 6, 2008, convicting him of bail jumping in the second degree, upon a jury verdict, and imposing sentence. The appeal brings up for review the denial, after a hearing (Kron, J.), of that branch of the defendant's omnibus motion which was to dismiss the indictment pursuant CPL 580.20.

ORDERED that the judgment is affirmed.

On appeal, the defendant contends that he was denied the right to a speedy trial under article III of CPL 580.20 because the People failed to bring him to trial within 180 days after his request for a final disposition of the indictment had been delivered to the appropriate court and prosecuting officer (*see* CPL 580.20, art III[a]). Although the defendant contends on appeal that the People should be charged with 206 days of delay, he concedes that he failed to challenge 30 of those days before the Supreme Court. Accordingly, the defendant's contention that he was denied the right to a speedy trial under article III of CPL 580.20 is unpreserved for appellate review, as he only challenged 176 days of delay (*see People v Williams*, 220 AD2d 787, 787-788; *People v Harden*, 151

November 15, 2011

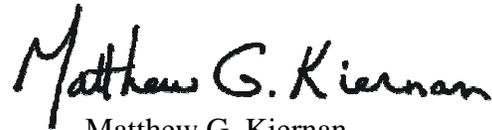
Page 1.

PEOPLE v BRANKER, VERNAL, also known as HEDGE, KAREEM

AD2d 777; *People v Gooden*, 151 AD2d 773, 774-775). Contrary to the defendant's contention, the issue was not preserved by his motion for leave to renew and/or reargue, which alleged a violation of the 120-day rule set forth in article IV of CPL 580.20 (see *People v Lambert*, 92 AD2d 550, 551, *affd* 61 NY2d 978).

MASTRO, J.P., CHAMBERS, SGROI and MILLER, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan
Clerk of the Court