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publication in the New York Reports.

No. 224 SSM 36
The People &c.,
Respondent,
v.
Clinton Johnson,
Appellant.

Submitted by Evan Hannay, for appellant.
Submitted by James P. Maxwell, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed.
There is record support for the conclusion that the nearly four
and one-half year delay between the crime and the indictment "did
not deprive defendant of his due process right to prompt
prosecution" (People v Velez, 22 NY3d 970, 972 [2013]). This is

not a circumstance where "a lengthy and unjustifiable delay in commencing the prosecution [] require[s] dismissal even though no actual prejudice to the defendant is shown" (People v Singer, 44 NY2d 241, 253-254 [1978]).

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur.

Decided November 17, 2016