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publication in the New York Reports.

No. 72 SSM 5
The People &c.,
Respondent,
v.
Julio Peguero-Sanchez,
Appellant.

Submitted by Stephen N. Preziosi, for appellant.
Submitted by Lauren Tan, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed.
Defendant's arguments concerning the People's summation are
unpreserved, and in any event, we reject defendant's contention
that the People improperly offered evidence and argument
concerning an uncharged sale of narcotics in violation of

defendant's due process rights and the rule set forth in People v Molineux (168 NY 264 [1901]). Additionally, evidence of defendant's text messages was properly admitted to rebut defendant's version of the events surrounding his arrest, as the text messages were "relevant to the very issues that the jury" was required to decide (People v Cade, 73 NY2d 904 [1989]; see People v Harris, 57 NY2d 335, 345 [1982]). Finally, any error resulting from a detective's testimony that defendant invoked his right to counsel was harmless, particularly in light of the trial court's offer of a curative instruction.

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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 Rivera, Abdus-Salaam, Stein, Fahey, Garcia and Wilson concur.

Decided March 23, 2017