

his constitutional right to confront witnesses was violated when the trial court allowed the People to elicit a statement that a non-testifying codefendant had made to a detective. The statement was admitted not to establish the truth of the matter asserted, but rather to show the detective's state of mind. As the United States Supreme Court recently observed, "[t]he [Confrontation] Clause . . . does not bar the use of testimonial statements for purposes other than establishing the truth of the matter asserted" (Crawford v Washington, __ US __, __, 124 S Ct 1354, 1369 n9 [2004], citing Tennessee v Street, 471 US 409, 414 [1985]).

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On review of submissions pursuant to section 500.4 of the Rules, order affirmed, in a memorandum. Chief Judge Kaye and Judges Smith, Ciparick, Rosenblatt, Graffeo, Read and Smith concur.

Decided June 10, 2004