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This memorandum is uncorrected and subject to revision before publication in the New York Reports.

No. 177 SSM 24

The People &c.,

Respondent,

v.

John Mingo,

Appellant.

Submitted by Lynn W. L. Fahey, for appellant.
Submitted by Fay Ng, for respondent.

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed. The Appellate Division, having affirmed without opinion, may have done so on the basis that the sentence imposed was not excessive, an issue beyond this Court's review. Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided October 16, 2007