

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

No. 235
The People &c.,
Respondent,
v.
Robert Guy Dickinson,
Appellant.

Robert M. Winn, for appellant.
Katherine G. Henley, for respondent.
New York State Defenders Association, amicus curiae.

MEMORANDUM:

The order of the Appellate Division should be reversed
and the indictment dismissed.

It is undisputed that the People were not ready for
trial within six months of the commencement of the action, as CPL
30.30 (1) (a) requires, even after application of the exclusions

listed in CPL 30.30 (4). The People's only claim is that defendant waived his rights under CPL 30.30 by participating in plea negotiations for several months.

While a defendant may waive rights under CPL 30.30 (People v Waldron, 6 NY3d 463 [2006]), the record here contains no evidence of any waiver, written or oral. Mere silence is not a waiver. We repeat our observation in Waldron that "prosecutors would be well advised to obtain unambiguous written waivers in situations like these" (id. at 468).

* * * * *

Order reversed and indictment dismissed, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided December 15, 2011