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

No. 207 SSM 40
The People &c.,
Respondent,
v.
Timoteo Ramirez,
Appellant.

Submitted by Diane V. Bruns, for appellant.
Submitted by Grace Vee, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed.
Contrary to defendant's argument, the Appellate
Division properly concluded that the verdict was supported by
legally sufficient evidence. Viewing the evidence in the light
most favorable to the prosecution, a reasonable jury could have

inferred that defendant constructively possessed the drugs and drug paraphernalia located in an apartment in which defendant himself was found (see generally People v Contes, 60 NY2d 620, 621 [1983]).

Moreover, although the record is silent as to whether Supreme Court showed the jury note to counsel as required in People v O'Rama (78 NY2d 270 [1991]), defense counsel had notice of the contents of the note and the court's response, and failed to object at that time, when the error could have been cured. Accordingly, defendant's claim is unpreserved for review (see People v Starling, 85 NY2d 509, 516 [1995]; see also People v Kadarko, 14 NY3d 426, 429-430 [2010]).

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided September 16, 2010