



this matter must be remitted to Supreme Court for a resentencing proceeding (see People v Sparber 10 NY3d 457, 469-471 [2008]).

We have considered defendant's remaining arguments, concerning the propriety of his arrest, and conclude that they are meritless.

\* \* \* \* \*

On review of submissions pursuant to section 500.11 of the Rules, order modified by remitting to Supreme Court, New York County, for resentencing and, as so modified, affirmed, in a memorandum. Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided December 18, 2008