

State of New York Court of Appeals

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

No. 65 SSM 11
The People &c.,
Appellant,
v.
Monique Esposito,
Respondent.

Submitted by Alexander Fumelli, for appellant.
Submitted by Michael Arthus, for respondent.

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On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Term, Second, Eleventh & Thirteenth Judicial Districts, for consideration of the facts and issues raised, but not determined, on the appeal to that Court. The factual allegations in the accusatory instrument were sufficient to support the inference that defendant was the operator of the vehicle involved in the accident and, thus, Appellate Term erroneously dismissed the accusatory instrument on that ground. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

Decided June 6, 2019