

# State of New York Court of Appeals

---

## MEMORANDUM

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

No. 64 SSM 9  
The People &c.,  
Respondent,  
v.  
Kendel R. Gregory,  
Appellant.

Submitted by Paul Skip Laisure, for appellant.  
Submitted by John F. McGoldrick, for respondent.

### MEMORANDUM:

The order of the Appellate Division should be affirmed. The trial court concluded—based upon, among other things, its own observations of defendant’s conduct throughout these lengthy proceedings and the testimony of defendant’s attending physician—that

defendant engaged in malingering insofar as he was competent to proceed but persisted in his efforts to avoid trial. Inasmuch as defendant “engaged in conduct which would prevent the fair and orderly exposition of the issues,” we conclude that the trial court did not abuse its discretion in denying defendant’s request to proceed pro se (People v McIntyre, 36 NY2d 10, 17 [1974]). Moreover, the existence of record support for the determination of the courts below that the pursuit of defendant by the police was justified by a “reasonable suspicion” of criminal activity forecloses our further review of that issue (People v De Bour, 40 NY2d 210, 223 [1976]; see People v Martinez, 80 NY2d 444, 447-448 [1992]).

\* \* \* \* \*

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

Decided June 6, 2019