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

No. 215 SSM 28
The People &c.,
Respondent,
v.
Michael Mungro,
Appellant.

Submitted by Charles J. Greenberg, for appellant.
Submitted by Michael J. Hillery, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed.

The People did not violate defendant's right to a
speedy trial pursuant to CPL 30.30 by failing to request his
presence in New York from federal custody in Ohio until his

prosecution there was completed and he began serving his sentence. The People had no statutory authority to request defendant's presence until such time (see CPL 580.20 art IV [a]) and therefore, should not be penalized for the period of time that defendant was unavailable for trial in New York (see People v Vrlaku, 73 NY2d 800, 802 [1988]).

Defendant's claim that the evidence was legally insufficient to support the verdict is unpreserved, and his ineffective assistance of counsel claim is without merit.

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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 June 30, 2011