

State of New York  
Supreme Court, Appellate Division  
Third Judicial Department

Decided and Entered: July 11, 2019

110721

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Appellant,

v

MEMORANDUM AND ORDER

MARINA Y. VIVIANI,

Respondent.

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Calendar Date: June 4, 2019

Before: Garry, P.J., Egan Jr., Aarons, Rumsey and Pritzker, JJ.

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Rachel P. Dunn, New York State Justice Center for the Protection of People with Special Needs, Delmar (Caitlin Halligan of Selendy & Gay, PLLC, New York City, of counsel), for appellant.

Law Office of Michael S. Pollok, PLLC, Red Hook (Michael S. Pollok of counsel), for respondent.

Letitia James, Attorney General, New York City (Barbara D. Underwood of counsel), in her statutory capacity under Executive Law § 71.

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Rumsey, J.

Appeal from an order of the Supreme Court (Breslin, J.), entered March 30, 2017 in Albany County, which granted defendant's motion to dismiss the indictment.

As the circumstances under which defendant was indicted are factually indistinguishable from the circumstances under which the defendant in People v Hodgdon (\_\_\_ AD3d \_\_\_ [decided herewith]) was indicted, we affirm for the reasons set forth therein.

Garry, P.J., Egan Jr., Aarons and Pritzker, JJ., concur.

ORDERED that the order is affirmed.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger  
Clerk of the Court