



PEOPLE STATE NEW YORK v. MAJOR HARDEN

543 N.Y.S.2d 947 (1989) | Cited 1 times | New York Supreme Court | June 26, 1989

Ordered that the judgment is affirmed.

The sole issue raised on this appeal is whether the defendant was denied his right to a speedy trial as provided by CPL 580.20, known as the "Interstate Agreement on Detainers". However, this claim is unpreserved for appellate review, as the defendant failed to move to dismiss the indictment on this ground and did not otherwise properly bring the claim to the attention of the trial court (see, CPL 470.05 [2]; *People v Primmer*, 46 N.Y.2d 1048; *People v Lambert*, 92 A.D.2d 550, *affd* 61 N.Y.2d 978). In any event, there was no violation of CPL 580.20. When those time periods occasioned by the resolution of the defendant's pretrial motions are excluded from the total period of delay, it is clear that the defendant, who had been incarcerated in a Federal penitentiary in Kansas, was tried within 120 days of his arrival in New York as required by subdivision (c) of article IV of the Interstate Agreement on Detainers (see, CPL 580.20 art VI [a]; *People v Torres*, 60 N.Y.2d 119; *People v Delaney*, 121 A.D.2d 650).

Thompson, J.P., Rubin, Sullivan and Rosenblatt, JJ., concur.

