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publication in the New York Reports.

No. 95
The People &c.,
Respondent,
v.
James L. Carr,
Appellant.

Evan M. Lumley, for appellant.
Nicholas T. Texido, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed.

There was no error in the denial of defendant's motion to vacate the judgment. Under these circumstances, the People were not required to seek court permission under CPL 190.75 (3) before presenting additional charges to a second grand jury. We

do not pass upon whether a CPL 440.10 motion lies to bring this claim, as that question is not before us.

* * * * *

Order affirmed, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Garcia, Wilson and Feinman concur. Judge Fahey took no part.

Decided October 19, 2017