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This memorandum is uncorrected and subject to revision before  
publication in the New York Reports.  
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No. 135  
The People &c.,  
Respondent,  
v.  
Paris Simmons,  
Appellant.

Valerie A. Koffman, for appellant.  
Aaron M. Ginandes, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed.

Although certain phrases in the trial court's  
supplemental instruction were inartfully worded, we are  
unpersuaded that the trial court's response to a jury note, which  
inquired about the element of intent, usurped the role of the

jurors. Viewing the problematic language in the broader context of the supplemental instruction and the jury charge as a whole, the court conveyed the proper legal standards and repeatedly advised the jury that it was the exclusive arbiter of the facts.

\* \* \* \* \*

Order affirmed, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided June 24, 2010