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This memorandum is uncorrected and subject to revision before  
publication in the New York Reports.  
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No. 81 SSM 35  
The People &c.,  
                  Appellant,  
                  v.  
Charles Zarate,  
                  Respondent.

Submitted by Thomas C. Costello, for appellant.  
Submitted by Kerry Sloane Bassett, for respondent.

\* \* \* \* \*  
On review of submissions pursuant to section 500.11 of the Rules,  
order affirmed (see People v Price, \_\_\_ NY3d \_\_\_ [decided  
today]). Chief Judge Lippman and Judges Ciparick, Graffeo, Read,  
Smith, Pigott and Jones concur.

Decided February 11, 2010