

# State of New York Court of Appeals

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## MEMORANDUM

This memorandum is uncorrected and subject to revision before publication in the New York Reports.

No. 61  
The People &c.,  
Appellant,  
v.  
Roque Silvagnoli,  
Respondent.

Stephen Kress, for appellant.  
William B. Carney, for respondent.

### MEMORANDUM:

The order of the Appellate Division should be reversed and the judgment of Supreme Court reinstated.

In this case, the impermissible questioning of defendant on a represented matter was so brief, flippant, and minimal that it was discrete and fairly separable as a matter of law

from the interrogation of defendant on an unrepresented matter (see People v Cohen, 90 NY2d 632, 641 [1997]). Defendant’s further arguments regarding the represented matter lack merit.

Defendant’s alternative argument presents a mixed question of law and fact that is not subject to further review where, as here, the determination that defendant failed to invoke his right to remain silent is supported by evidence in the record (see People v Glover, 87 NY2d 838, 839 [1995]).

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Order reversed and judgment of Supreme Court, New York County, reinstated, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

Decided June 12, 2018