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

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No. 133 SSM 20  
The People &c.,  
Respondent,  
v.  
Douglas R. Every,  
Appellant.

Submitted by William T. Easton, for appellant.  
Submitted by Kirk O. Martin, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed. Defendant has failed to meet his burden of "demonstrat[ing] the absence of strategic or other legitimate explanations for counsel's alleged failure[s]" (People v Wragg, 26 NY3d 403, 409 [2015]) and, thus, he cannot prevail on his ineffective

assistance of counsel claim. His assertions that County Court erred in charging the jury and deprived him of his constitutional right to present a defense by excluding certain evidence are unpreserved (see People v Angelo, 88 NY2d 217, 222 [1996]; People v Autry, 75 NY2d 836, 839 [1990]). Defendant's remaining arguments have been considered and found to be lacking in merit.

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

Decided September 5, 2017