

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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_____AD3d_____

Argued - May 27, 2008

A. GAIL PRUDENTI, P.J.
PETER B. SKELOS
JOSEPH COVELLO
RUTH C. BALKIN, JJ.

2002-06972

DECISION & ORDER

The People, etc., respondent,
v Ali Bessaha, appellant.

(Ind. No. 580/01)

Bruce R. Bekritsky, Mineola, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Tammy J. Smiley, Andre K. Cizmarik, and Anthony J. Viola of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (Calabrese, J.), rendered June 26, 2002, convicting him of murder in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620, 621), and affording it the benefit of every favorable inference to be drawn therefrom, the evidence was legally sufficient to establish the defendant's guilt beyond a reasonable doubt (*see People v Sadler*, 49 AD3d 670, *lv denied* 10 NY3d 869). There is a valid line of reasoning and permissible inferences from which a rational jury could have found that the elements of murder in the second degree were proven beyond a reasonable doubt (*see People v Smith*, 6 NY3d 827, *cert denied* 548 US 905). Furthermore, upon the exercise of our factual review power (*see CPL 470.15[5]*), we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

August 12, 2008

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The defendant's contention regarding the admission of prior bad acts is unpreserved for appellate review and, in any event, is without merit.

The defendant's claim of ineffective assistance of counsel, raised in his supplemental pro se brief, is based, in part, on matter dehors the record, which cannot be reviewed on direct appeal (*see People v Drago*, 50 AD3d 920; *People v Potts*, 49 AD3d 782, *lv denied* 10 NY3d 868). To the extent this claim can be reviewed, the defendant received meaningful representation (*see People v Adams*, 12 AD3d 523; *People v Wright*, 8 AD3d 507; *People v Washington*, 5 AD3d 615).

The defendant's remaining contention, which was raised in his supplemental pro se brief, is without merit.

PRUDENTI, P.J., SKELOS, COVELLO and BALKIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court