

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

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_____AD3d_____

Argued - February 3, 2009

ROBERT A. SPOLZINO, J.P.
DAVID S. RITTER
HOWARD MILLER
RUTH C. BALKIN, JJ.

2005-05464

DECISION & ORDER

The People, etc., respondent,
v Joe Manley, appellant.

(Ind. No. 1016/02)

Lynn W. L. Fahey, New York, N.Y. (Warren S. Landau of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano and Laura T. Ross of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (McGann, J.), rendered May 17, 2005, convicting him of murder in the second degree, criminal possession of a weapon in the second degree (two counts), and criminal mischief in the fourth degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's challenge to the legal sufficiency of the evidence is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Hawkins*, 11 NY3d 484; *People v Finger*, 95 NY2d 894, 895). In any event, viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620), we find that it was legally sufficient to establish the defendant's guilt beyond a reasonable doubt. Moreover, in fulfilling our responsibility to conduct an independent review of the weight of the evidence (*see* CPL 470.15[5]; *People v Danielson*, 9 NY3d 342), we nevertheless accord great deference to the jury's opportunity to view the witnesses, hear the testimony, and observe demeanor (*see People v Mateo*, 2 NY3d 383, 410, *cert denied* 542 US 946; *People v Bleakley*, 69 NY2d 490, 495). Upon reviewing the record here, we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633). The

March 17, 2009

PEOPLE v MANLEY, JOE

Page 1.

fact that some of the People's witnesses had unsavory backgrounds and testified pursuant to cooperation agreements did not render their testimony incredible (*see People v Calabria*, 3 NY3d 80; *People v Adams*, 302 AD2d 601).

The defendant's contention that he was entitled to an accomplice corroboration charge pursuant to CPL 60.22 is also unpreserved for appellate review (*see People v Edwards*, 28 AD3d 491, 492; *People v Rudd*, 18 AD3d 539, 540) and, in any event, is without merit (*see e.g. People v Edwards*, 28 AD3d at 492; *People v Young*, 235 AD2d 441, 442; *People v Morillo*, 156 AD2d 479, 480).

Contrary to the defendant's contention, he was not denied the effective assistance of counsel. Viewing the record as a whole, we conclude that the defendant received meaningful representation (*see People v Taylor*, 1 NY3d 174, 176; *People v Baldi*, 54 NY2d 137).

SPOLZINO, J.P., RITTER, MILLER and BALKIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court