

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

D22904
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_____AD3d_____

Submitted - March 6, 2009

PETER B. SKELOS, J.P.
FRED T. SANTUCCI
THOMAS A. DICKERSON
RANDALL T. ENG, JJ.

2005-07284
2007-03340

DECISION & ORDER

The People, etc., respondent,
v Achyvaldo Lara, appellant.

(Ind. No. 55/03)

Steven Banks, New York, N.Y. (Mitchell J. Briskey of counsel), for appellant, and
appellant pro se.

Daniel M. Donovan, Jr., District Attorney, Staten Island, N.Y. (Morrie I. Kleinbart
and Anne Grady of counsel), for respondent.

Appeals by the defendant from (1) a judgment of the Supreme Court, Richmond
County (Rooney, J.), rendered December 3, 2004, convicting him of criminal sale of a controlled
substance in the first degree, criminal sale of a controlled substance in the second degree (nine
counts), and criminal sale of a controlled substance in the third degree (two counts), upon a jury
verdict, and imposing sentence, and (2) a resentence of the same court dated March 16, 2007,
pursuant to the Drug Law Reform Acts of 2004 and 2005 (L 2004, ch 738, § 23; L 2005, ch 643, §
1), imposed after a hearing, the resentence being concurrent determinate terms of imprisonment of
13 years upon his conviction of criminal sale of a controlled substance in the first degree and 5 years
upon each of his convictions of criminal sale of a controlled substance in the second degree and a
period of postrelease supervision of 5 years.

ORDERED that the judgment and the resentence are affirmed.

Viewing the evidence in the light most favorable to the prosecution (*see People v*

April 21, 2009

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Contes, 60 NY2d 620), we find that it was legally sufficient to establish the defendant's guilt beyond a reasonable doubt. Upon our independent review pursuant to 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).

The resentence imposed was not excessive (*see People v Martinez*, 55 AD3d 753; *People v Suitte*, 90 AD2d 80).

The defendant's remaining contentions, raised in point one of his brief and points one and four of his supplemental pro se brief, are without merit. The contentions raised in point three of the defendant's supplemental pro se brief are unpreserved for appellate review and, in any event, are without merit.

SKELOS, J.P., SANTUCCI, DICKERSON and ENG, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court