

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

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_____AD3d_____

Argued - December 11, 2009

PETER B. SKELOS, J.P.
THOMAS A. DICKERSON
PLUMMER E. LOTT
SHERI S. ROMAN, JJ.

2007-02003

DECISION & ORDER

The People, etc., respondent,
v Tricia Benard, appellant.

(Ind. No. 6009/05)

Lynn W. L. Fahey, New York, N.Y. (Kendra L. Hutchinson of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Ann Bordley of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Chambers, J.), rendered February 22, 2007, convicting her of grand larceny in the second degree, criminal possession of a forged instrument in the second degree (three counts), falsifying business records in the first degree, and scheme to defraud in the first 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, 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).

January 26, 2010

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The Supreme Court properly denied the defendant's motion to dismiss the indictment on CPL 30.30 grounds. One day after her arraignment on a felony complaint, the defendant, through her attorney, executed a written waiver of her CPL 30.30 rights. As the defendant never revoked this waiver, only one day was chargeable to the People (*see People v Waldron*, 6 NY3d 463, 467; *People v Newman*, 37 AD3d 621).

The defendant's contention that the Supreme Court failed to respond meaningfully to three notes from the jury regarding the counts charging criminal possession of a forged instrument in the second degree is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Starling*, 85 NY2d 509, 516; *People v Romgobind*, 40 AD3d 1133; *People v Clark*, 298 AD2d 461). In any event, the Supreme Court's responses to the notes, which were discussed with counsel before they were rendered, were meaningful (*see People v Steinberg*, 79 NY2d 673, 684; *People v Fair*, 308 AD2d 597).

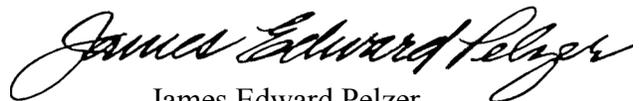
Trial counsel provided meaningful representation at all stages of the proceedings (*see People v Benevento*, 91 NY2d 708; *People v Baldi*, 54 NY2d 137).

The sentence imposed was not excessive (*see People v Felix*, 58 NY2d 156; *People v Suitte*, 90 AD2d 80).

The defendant's remaining contentions are unpreserved for appellate review (*see* CPL 470.05[2]).

SKELOS, J.P., DICKERSON, LOTT and ROMAN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court