

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

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_____AD3d_____

Submitted - January 14, 2010

MARK C. DILLON, J.P.
ANITA R. FLORIO
JOHN M. LEVENTHAL
SHERI S. ROMAN, JJ.

2007-07491

DECISION & ORDER

The People, etc., respondent,
v Michael Laigo, appellant.

(Ind. No. 2604/06)

Thomas F. Liotti, Garden City, N.Y. (Michael P. Hilferty and Drummond C. Smith of counsel), for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Robert A. Schwartz and Cristin N. Connell of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Nassau County (Peck, J.), rendered July 17, 2007, convicting him of criminal sale of a controlled substance in the third degree, criminal possession of a controlled substance in the third degree, and criminal possession of a controlled substance in the fifth degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that his convictions were not supported by legally sufficient evidence is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Hawkins*, 11 NY3d 484, 492). 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;

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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 defendant's contention that he was denied a fair trial because the People elicited certain expert testimony is unpreserved for appellate review because the defendant failed to object to the introduction of the challenged evidence (*see CPL 470.05[2]*). In any event, to the extent that the admission of the expert testimony may have been improper, it was not so egregious as to deprive the defendant of a fair trial (*see People v Roopchand*, 107 AD2d 35, 36-37, *affd* 65 NY2d 837; *People v Wright*, 62 AD3d 916, 917-918).

The defendant was afforded the effective assistance of trial counsel (*see People v Baldi*, 54 NY2d 137, 146-147).

The sentence imposed was not excessive (*see People v Thompson*, 60 NY2d 513, 519; *People v Suitte*, 90 AD2d 80). Finally, as the defendant was convicted and sentenced before the effective date of the Drug Law Reform Act of 2009, he is not entitled to be resentenced thereunder (*see generally People v Utsey*, 7 NY3d 398).

DILLON, J.P., FLORIO, LEVENTHAL and ROMAN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court