

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

D26314
O/hu

_____AD3d_____

Argued - February 1, 2010

JOSEPH COVELLO, J.P.
HOWARD MILLER
THOMAS A. DICKERSON
ARIEL E. BELEN, JJ.

2008-04537

DECISION & ORDER

The People, etc., respondent,
v Tiffany Ellis, appellant.

(Ind. No. 9747/07)

Steven Banks, New York, N.Y. (Natalie Rea of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Camille O'Hara Gillespie of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Reichbach, J.), rendered April 22, 2008, convicting her of manslaughter in the first degree, after a nonjury trial, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant was indicted and tried on charges of murder in the second degree (*see* Penal Law § 125.25[1]) and manslaughter in the first degree (*see* Penal Law § 125.20[1]) after she stabbed a man in the chest with a steak knife, causing his death.

Contrary to the defendant's contention, the record does not reflect that the Supreme Court failed to consider, pursuant to her timely and specific request (*see People v Rodriguez*, 295 AD2d 544), manslaughter in the second degree and criminally negligent homicide as lesser-included offenses of murder in the second degree and manslaughter in the first degree. In any event, even when viewing the evidence in the light most favorable to the defendant (*see People v Martin*, 59 NY2d 704, 705), there is no reasonable view of the evidence that supports the conclusion that the

March 2, 2010

PEOPLE v ELLIS, TIFFANY

Page 1.

defendant committed either of the lesser offenses but not the greater (*see People v Monroe*, 30 AD3d 616, 617-618; *People v Rodriguez*, 295 AD2d at 544, 545). Accordingly, the defendant's contention that reversal is required based on the Supreme Court's failure to consider the lesser offenses is without merit.

The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80, 83-86).

The defendant's remaining contentions are without merit.

COVELLO, J.P., MILLER, DICKERSON and BELEN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court