

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

D28823
G/prt

_____AD3d_____

Argued - October 12, 2010

PETER B. SKELOS, J.P.
RUTH C. BALKIN
CHERYL E. CHAMBERS
LEONARD B. AUSTIN, JJ.

2008-03182

DECISION & ORDER

The People, etc., respondent,
v Donaldo Romero, appellant.

(Ind. No. 8592/06)

Dechert LLP, New York, N.Y. (Neil A. Steiner and Eric C. Kirsch of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Anthea H. Bruffee, Sholom J. Twersky, and Sullivan & Cromwell, LLP [David L. Breau], of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Chun, J.), rendered March 27, 2008, convicting him of burglary in the first degree and assault in the third degree, upon a jury verdict, and imposing sentence. The appeal brings up for review the denial, after a hearing, of those branches of the defendant's omnibus motion which were to suppress identification testimony and physical evidence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, the Supreme Court did not err in denying those branches of the defendant's omnibus motion which were to suppress identification testimony and physical evidence. The evidence adduced at the suppression hearing demonstrated that the police officer who detained the defendant just prior to his arrest had reasonable suspicion to do so, based on information that he had received minutes earlier from a radio transmission and from a civilian who had been chasing the defendant, and the officer's own observation of the chase (*see People v Lopez*, 258 AD2d 388; *People v Youmans*, 228 AD2d 345, 346; *People v Arthur*, 209 AD2d 175, 176).

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Viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620, 621), we find that it was legally sufficient to establish that the defendant knowingly entered a dwelling unlawfully with respect to the charge of burglary in the first degree (*see Matter of Ryan R.*, 254 AD2d 49, 50; *People v Delcarpio*, 220 AD2d 341, 342; *People v Johnson*, 162 AD2d 267). 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, 859).

The defendant's remaining contention is without merit.

SKELOS, J.P., BALKIN, CHAMBERS and AUSTIN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan
Clerk of the Court