

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

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Submitted - December 7, 2010

MARK C. DILLON, J.P.
DANIEL D. ANGIOLILLO
ARIEL E. BELEN
SHERI S. ROMAN, JJ.

2008-06953

DECISION & ORDER

The People, etc., respondent,
v Rodney Duff, appellant.

(IDV No. 20376/07)

Steven Banks, New York, N.Y. (Jonathan Garelick of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Jodi L. Mandel, and Bruce Alderman of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Morgenstern, J.), rendered June 26, 2008, convicting him of attempted assault in the third degree, menacing in the third degree, and harassment in the second degree, after a nonjury trial, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the evidence was legally insufficient to support his conviction of attempted assault in the third degree, menacing in the third degree, and harassment in the second degree is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Hawkins*, 11 NY3d 484, 492; *People v Gray*, 86 NY2d 10, 21). 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.

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 fact-finder's opportunity to view the witnesses, hear the testimony, and observe

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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).

DILLON, J.P., ANGIOLILLO, BELEN and ROMAN, 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