

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

D29670
C/kmb

_____AD3d_____

Submitted - December 10, 2010

JOSEPH COVELLO, J.P.
RANDALL T. ENG
CHERYL E. CHAMBERS
L. PRISCILLA HALL, JJ.

2008-03670

DECISION & ORDER

The People, etc., respondent,
v Kevin Davis, appellant.

(Ind. No. 6819/06)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Anthea H. Bruffee, and Terry-Ann Llewellyn of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Gerges, J.), rendered April 6, 2008, convicting him of course of sexual conduct against a child in the first degree, sodomy in the second degree, criminal sexual act in the second degree (11 counts), rape in the second degree, and endangering the welfare of a child, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Viewing the evidence in the light most favorable to the prosecution (*see People v Danielson*, 9 NY3d 342, 349), 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; *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, 643).

The defendant's contention that 13 of the counts of the indictment were rendered duplicitous by trial testimony is not preserved for appellate review (*see* CPL 470.05[2]; *People v Drysdale*, 295 AD2d 533, 533), and we decline to reach the issue in the exercise of our interest of justice jurisdiction (*see* CPL 470.15[6]; *People v Nash*, 77 AD3d 687, 688; *People v Saintilus*, 74 AD3d 996, 997).

The defendant's remaining contention is without merit.

COVELLO, J.P., ENG, CHAMBERS and HALL, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court