

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

D29693
C/kmb

_____AD3d_____

Argued - December 17, 2010

MARK C. DILLON, J.P.
RUTH C. BALKIN
JOHN M. LEVENTHAL
CHERYL E. CHAMBERS, JJ.

2009-04008

DECISION & ORDER

The People, etc., respondent,
v Luis Ramos, appellant.

(Ind. No. 7951/06)

Lynn W. L. Fahey, New York, N.Y. (Katherine A. Levine of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Anthea Bruffee, and Kirkland & Ellis, LLP [Courtney Patrick Mitchell], of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Mangano, Jr., J.), rendered April 22, 2009, convicting him of manslaughter in the first degree, 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 Contes*, 60 NY2d 620), we find that it was legally sufficient to establish the defendant's guilt of manslaughter in the first degree (*see* Penal Law § 125.20[1]) beyond a reasonable doubt. The defendant's intent to cause serious physical injury (*see* Penal Law § 10.00[10]) may be inferred from his conduct and the surrounding circumstances (*see People v Bracey*, 41 NY2d 296, 303; *People v Spurgeon*, 63 AD3d 863; *People v Gumbs*, 58 AD3d 641). Moreover, upon our independent review pursuant to CPL 470.15(5), we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

January 18, 2011

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The sentence imposed was not excessive (*see* CPL 470.15[2][c], [6][b]; 470.20[6]; *People v Thompson*, 60 NY2d 513, 519; *People v Suitte*, 90 AD2d 80).

DILLON, J.P., BALKIN, LEVENTHAL and CHAMBERS, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court