

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

D30046
C/kmb

_____AD3d_____

Argued - November 9, 2010

A. GAIL PRUDENTI, P.J.
ANITA R. FLORIO
ARIEL E. BELEN
LEONARD B. AUSTIN, JJ.

2009-00568

DECISION & ORDER

The People, etc., respondent,
v Christopher Simpkins, appellant.

(Ind. No. 7912/07)

Steven Banks, New York, N.Y. (Allen Fallek of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Rhea Grob of counsel; Williams Fields on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Sullivan, J.), rendered January 8, 2009, convicting him of attempted murder in the first degree (two counts), attempted murder in the second degree, and criminal possession of a weapon in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the evidence was legally insufficient to establish his guilt of attempted murder in the first degree and attempted murder in the second degree is unpreserved for appellate review, as defense counsel merely joined in the codefendant's general motion for a trial order of dismissal based upon the People's alleged failure to make out a prima facie case (*see* CPL 470.05[2]; *People v Hawkins*, 11 NY3d 484; *People v Lewis*, 72 AD3d 705). In any event, 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 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).

The defendant was not deprived of the effective assistance of counsel, as defense counsel provided meaningful representation (*see People v Benevento*, 91 NY2d 708; *People v Baldi*, 54 NY2d 137).

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

PRUDENTI, P.J., FLORIO, BELEN and AUSTIN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court