

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

D30197
C/kmb

_____AD3d_____

Argued - February 2, 2011

PETER B. SKELOS, J.P.
RANDALL T. ENG
ARIEL E. BELEN
PLUMMER E. LOTT, JJ.

2009-04092

DECISION & ORDER

The People, etc., respondent,
v Stephen Holden, appellant.

(Ind. No. 198/07)

Steven Banks, New York, N.Y. (Bonnie C. Brennan of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano,
Nicoletta J. Caferri, and William H. Branigan of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Cooperman, J.), rendered April 22, 2009, convicting him of criminal possession of a weapon in the second degree and criminal possession of a weapon in the third 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 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).

March 1, 2011

PEOPLE v HOLDEN, STEPHEN

Page 1.

Contrary to the defendant's contention, the prosecutor's redirect examination of the detective who witnessed the defendant drop the firearm did not impermissibly bolster the detective's testimony by introducing a prior consistent statement from the detective's testimony at the defendant's prior trial. The trial court properly allowed the prosecutor to introduce a part of the detective's prior testimony on redirect examination for the purpose of explaining and clarifying a part of the detective's prior testimony that was introduced on cross-examination (*see People v Ochoa*, 14 NY3d 180, 186-187; *People v Torre*, 42 NY2d 1036, 1037; *People v Melendez*, 51 AD3d 1040; *People v Williams*, 43 AD3d 414; *People v Johnson*, 296 AD2d 422).

SKELOS, J.P., ENG, BELEN and LOTT, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court