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

D31100
Y/ct

_____AD3d_____ Argued - April 14, 2011

MARK C. DILLON, J.P.
JOSEPH COVELLO
RANDALL T. ENG
CHERYL E. CHAMBERS, JJ.

2009-02054 DECISION & ORDER

The People, etc., respondent,
v Ramon Roman, appellant.

(Ind. No. 9378/06)

Lynn W. L. Fahey, New York, N.Y., for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Diane R. Eisner of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Firetog, J.), rendered February 4, 2009, convicting him of murder 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 establish his guilt of murder in the second degree beyond a reasonable doubt is unpreserved for appellate review and, in any event, is without merit. 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 fact-finder'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 evidence presented at trial supported a finding that the defendant was not acting "under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse" when he stabbed and killed the victim (Penal Law § 125.25[1][a]; *see People v Reynart*, 71

AD3d 1057, 1058; *People v Pallonetti*, 62 AD3d 1027, 1028).

The defendant's contention that the Supreme Court erred in limiting certain testimony of the defense expert is unpreserved for appellate review and, in any event, without merit (*see People v Macuil*, 67 AD3d 1025; *People v Martin*, 33 AD3d 1024).

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

ENTER:

Matthew G. Kiernan
Clerk of the Court