

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

D31196
W/kmb

_____AD3d_____

Argued - March 17, 2011

A. GAIL PRUDENTI, P.J.
MARK C. DILLON
RUTH C. BALKIN
SANDRA L. SGROI, JJ.

2007-00899

DECISION & ORDER

The People, etc., respondent,
v Tedy Pierre, appellant.

(Ind. No. 3991/06)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Anthea H. Bruffee, and Davis Polk & Wardwell LLP [Andrew Ditchfield and Douglas S. Zolkind], of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Hall, J.), rendered January 18, 2007, convicting him of rape in the first degree, sexual abuse in the first degree (five counts), criminal sexual act in the first degree (two counts), and endangering the welfare of a child (three counts), upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

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; *People v Lundell*, 24 AD3d 569; *People v Gangale*, 249 AD2d 413).

May 10, 2011

PEOPLE v PIERRE, TEDY

Page 1.

The defendant's specific contention that "prompt outcry" evidence is not admissible if the victim's statement is elicited by a third person is unpreserved for appellate review (*see* CPL 470.05[2]), and we decline to reach it in the exercise of our interest of justice jurisdiction.

The defendant's remaining contentions are without merit.

PRUDENTI, P.J., DILLON, BALKIN and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court