

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

D31721
O/kmb

_____AD3d_____

Submitted - May 31, 2011

MARK C. DILLON, J.P.
JOHN M. LEVENTHAL
L. PRISCILLA HALL
PLUMMER E. LOTT, JJ.

2008-02548

DECISION & ORDER

The People, etc., respondent,
v Eugene G. LaPierre, appellant.

(Ind. No. 203/07)

Joseph A. Hanshe, P.C., Sayville, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Sarah S. Rabinowitz of counsel;
Andrew Saraga on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Nassau County (Ayres, J.), rendered February 15, 2008, convicting him of robbery in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, the police had probable cause to arrest him (see *People v Stays*, 265 AD2d 585; *People v Palacio*, 121 AD2d 282, 283; see also *People v Mitchell*, 166 AD2d 676).

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 robbery in the third degree 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

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are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

The defendant's contention that he was deprived of a fair trial as a result of the prosecutor's summation is unpreserved for appellate review (*see CPL 470.05[2]; People v Malave*, 7 AD3d 542; *People v Bruen*, 136 AD2d 648, 649). In any event, the defendant's contention is without merit (*see People v Paul*, 82 AD3d 1267, 1267-1268, *lv denied* 16 NY3d 898; *People v Adamo*, 309 AD2d 808, 810; *People v Phillips*, 285 AD2d 477, 478; *People v Hill*, 176 AD2d 755, 756).

DILLON, J.P., LEVENTHAL, HALL and LOTT, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court