

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

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H/kmb

_____AD3d_____

Submitted - May 23, 2011

JOSEPH COVELLO, J.P.
JOHN M. LEVENTHAL
PLUMMER E. LOTT
ROBERT J. MILLER, JJ.

2008-10179

DECISION & ORDER

The People, etc., respondent,
v Johnie Bonds, appellant.

(Ind. No. 381/08)

Richard L. Herzfeld, New York, N.Y., for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Edward A. Bannan of counsel),
for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Hudson, J.), rendered October 10, 2008, convicting him of criminal trespass in the third 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 beyond a reasonable doubt is unpreserved for appellate review (*see* CPL 470.05; *People v Hawkins*, 11 NY3d 484, 491-492; *People v Gray*, 86 NY2d 10, 19-20). In any event, viewing the evidence in the light most favorable to the prosecution (*People v Contes*, 60 NY2d 620), we find that it was legally sufficient to establish the defendant's guilt beyond a reasonable doubt (*see generally* *Matter of Jeffrey M.*, 309 AD2d 937, 938; *cf. Matter of Paul N.*, 244 AD2d 489, 490).

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*

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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 Danielson*, 9 NY3d 342; *People v Romero*, 7 NY3d 633).

The defendant further contends that he was deprived of a fair trial by the prosecutor's tactic of asking him on cross-examination whether he believed two of the prosecution's police witnesses were lying. Although we have repeatedly disapproved of this type of questioning (see e.g. *People v Berrios*, 298 AD2d 597, 597; *People v Webb*, 68 AD2d 331, 333; *People v Yant*, 75 AD2d 653, 653), any error committed here was harmless as there was overwhelming evidence of the defendant's guilt and no significant probability that the impropriety in the prosecutor's cross-examination affected the verdict (see *People v Crimmins*, 36 NY2d 230, 241-242; *People v Gonzalez*, 15 AD3d 594, 594-595; *People v Lawrence*, 4 AD3d 436, 437; *People v McGlone*, 222 AD2d 529, 529; *People v Calada*, 154 AD2d 700, 700).

COVELLO, J.P., LEVENTHAL, LOTT and MILLER, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court