

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

D32385  
H/kmb

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - September 15, 2011

A. GAIL PRUDENTI, P.J.  
REINALDO E. RIVERA  
LEONARD B. AUSTIN  
SHERI S. ROMAN, JJ.

2010-01888

DECISION & ORDER

The People, etc., respondent,  
v Alberto Pedroza-Castillo, appellant.

(Ind. No. 1586/07)

Lynn W. L. Fahey, New York, N.Y. (Anna Pervukhin of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Ellen C. Abbot, and Daniel I.A. Smulian of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (McGann, J.), rendered December 7, 2009, convicting him of attempted robbery in the first degree, criminal possession of a weapon in the third degree, and menacing in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that his conviction of attempted robbery in the first degree was not supported by legally sufficient evidence is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Hawkins*, 11 NY3d 484, 492). In any event, 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 (*see People v Norris*, 196 AD2d 512, 513; *People v Harris*, 191 AD2d 643). Moreover, upon our independent review pursuant to CPL 470.15(5), we are satisfied that the verdict of guilt as to attempted robbery in the first degree was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

September 27, 2011

Page 1.

PEOPLE v PEDROZA-CASTILLO, ALBERTO

The sentence imposed was not excessive (*see People v Nelson*, 56 AD3d 899; *People v Parker*, 305 AD2d 871, 872; *People v Suite*, 90 AD2d 80).

The defendant's remaining contention is without merit.

PRUDENTI, P.J., RIVERA, AUSTIN and ROMAN, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court