

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

D32400  
H/prt

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

Argued - September 8, 2011

REINALDO E. RIVERA, J.P.  
ANITA R. FLORIO  
JOHN M. LEVENTHAL  
SHERI S. ROMAN, JJ.

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2010-04833

DECISION & ORDER

The People, etc., respondent,  
v Steven M. PorDY, appellant.

(Ind. No. 09-00126)

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Brafman & Associates, P.C., New York, N.Y. (Mark M. Baker of counsel), for appellant.

Thomas P. Zugibe, District Attorney, New City, N.Y. (Itamar J. Yeger of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Rockland County (Nelson, J.), rendered April 20, 2010, convicting him of grand larceny in the second degree, aiding or assisting in the giving of fraudulent returns (two counts), offering a false instrument for filing in the first degree (seven counts), and conspiracy in the fourth degree, upon a jury verdict, and sentencing him to concurrent terms of imprisonment of two to six years on the conviction of grand larceny in the second degree, and one to three years on each of the remaining convictions.

ORDERED that the judgment is modified, as a matter of discretion in the interest of justice, by reducing the sentences on all counts to concurrent terms of five years of probation; as so modified, the judgment is affirmed, and the matter is remitted to the Supreme Court, Rockland County, to set the terms and conditions of probation, and for further proceedings pursuant to CPL 460.50(5) and 530.45(6).

Contrary to the defendant's contention, upon reargument, the County Court properly adhered to its prior determination denying that branch of his motion which was to dismiss the indictment on the ground that he was deprived of his statutory right to a speedy trial (*see* CPL 30.30).

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

Although we agree with the defendant that the County Court erred in admitting certain summary exhibits introduced by the People that bore a column heading entitled, "Stolen Sales Tax," that error was harmless, as there was overwhelming evidence of the defendant's guilt and no significant probability that the error contributed to his conviction (*see People v Crimmins*, 36 NY2d 230, 241-242).

Under the particular circumstances here, the sentences are excessive to the extent indicated herein.

The defendant's remaining contentions are without merit.

RIVERA, J.P., FLORIO, LEVENTHAL and ROMAN, JJ., concur.

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2010-04833

DECISION & ORDER ON MOTION

The People, etc., respondent,  
v Steven M. Porady, appellant.

(Ind. No. 09-00126)

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Motion by the respondent on an appeal from a judgment of the County Court, Rockland County, rendered April 20, 2010, inter alia, for this Court to take judicial notice of three documents annexed to its motion papers as Exhibits A, B, and C, respectively. By decision and order on motion of this Court dated March 10, 2011, that branch of the motion which was for this Court to take judicial notice of the three documents was held in abeyance and referred to the panel of Justices hearing the appeal for determination upon the argument or submission thereof.

Upon the papers filed in support of the motion, the papers filed in opposition thereto, and upon the argument of the appeal, it is

ORDERED that the branch of the motion which was for this Court to take judicial

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notice of three documents annexed to its motion papers as Exhibits A, B, and C, respectively, is granted.

RIVERA, J.P., FLORIO, LEVENTHAL and ROMAN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive style with a large, prominent initial "M".

Matthew G. Kiernan  
Clerk of the Court