

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

D32746
Y/mv

_____AD3d_____

Argued - October 14, 2011

MARK C. DILLON, J.P.
THOMAS A. DICKERSON
CHERYL E. CHAMBERS
ROBERT J. MILLER, JJ.

2010-10814

DECISION & ORDER

The People, etc., respondent,
v Karsem Allen, appellant.

(Ind. No. 2761/08)

Lynn W. L. Fahey, New York, N.Y. (Jessica M. McNamara of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Johnnette Traill, and Francis Longobardi of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Buchter, J.), rendered October 18, 2010, convicting him of intimidating a victim or witness in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant contends that the verdict was against the weight of the evidence. 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). Any inconsistencies in the complaining witness's testimony were minor and did not render his testimony incredible or unreliable (*see People v Clerge*, 69 AD3d 955; *People v Scipio*, 61 AD3d 899). The fact that the defendant was acquitted on the count of tampering with a witness in the third degree (*see* Penal Law § 215.11[1]) did not undermine the

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weight of the evidence supporting the jury's conviction on the count of intimidating a victim or witness in the third degree (*see* Penal Law § 215.15[1]; *People v Rayam*, 94 NY2d 557, 563; *People v Woods*, 82 AD3d 1277; *People v Williams*, 13 AD3d 131; *People v Freeman*, 298 AD2d 311). Accordingly, the jury's verdict convicting the defendant of intimidating a victim or witness in the third degree was not against the weight of the evidence.

DILLON, J.P., DICKERSON, CHAMBERS and MILLER, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court