

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

D32840
C/kmb

_____AD3d_____

Argued - October 25, 2011

REINALDO E. RIVERA, J.P.
DANIEL D. ANGIOLILLO
ARIEL E. BELEN
SHERI S. ROMAN, JJ.

2010-01564

DECISION & ORDER

The People, etc., respondent,
v Enrique Pizarro, appellant.

(Ind. No. 9313/08)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Howard B. Goodman of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Firetog, J.), rendered February 1, 2010, convicting him of manslaughter in the first degree and criminal possession of a weapon in the fourth degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant was indicted on charges of, inter alia, murder in the second degree. At trial, he requested that the court charge the lesser-included offenses of manslaughter in the first degree and manslaughter in the second degree. The Supreme Court properly denied the defendant's request to charge manslaughter in the second degree as a lesser-included offense of the charge of murder in the second degree. Viewing the evidence in the light most favorable to the defendant, there was no reasonable view of the evidence that would support a finding that the defendant acted recklessly when he stabbed the decedent (*see People v Lopez*, 72 AD3d 593, 593-594; *People v Collins*, 290 AD2d 457, 458; *People v James*, 284 AD2d 549; *People v Barnes*, 265 AD2d 169; *People v Porter*, 161 AD2d 811).

November 9, 2011

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The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

RIVERA, J.P., ANGIOLILLO, BELEN and ROMAN, JJ., concur.

ENTER 
Matthew G. Kiernan
Clerk of the Court