

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

D32841
C/kmb

_____AD3d_____

Argued - October 21, 2011

WILLIAM F. MASTRO, J.P.
MARK C. DILLON
SANDRA L. SGROI
ROBERT J. MILLER, JJ.

2008-10588

DECISION & ORDER

The People, etc., respondent,
v Ramel Webb, appellant.

(Ind. No. 748/07)

Lynn W. L. Fahey, New York, N.Y. (Paul Skip Laisure of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Diane R. Eisner, and Melissa J. Erwin of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Guzman, J.), rendered October 14, 2008, convicting him of robbery in the second degree and criminal possession of a weapon in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the trial court erred in admitting his statement, allegedly made "a few weeks" before the robbery, that he knew "the perfect guy to rob in Brooklyn," is unpreserved for appellate review (*see* CPL 470.05[2]). In any event, any error resulting from admission of the challenged statement was harmless, as there was overwhelming evidence of the defendant's guilt, and no significant probability that the error affected the verdict (*see People v Crimmins*, 36 NY2d 230, 241-242).

Contrary to the defendant's contention, the trial court did not improvidently exercise its discretion in granting the People's application for a missing-witness charge (*see People v Savinon*, 100 NY2d 192; *People v Gonzalez*, 68 NY2d 424).

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The defendant's contention that the missing-witness charge was insufficient because it varied from the Pattern Jury Instructions is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Townsend*, 83 AD3d 969). In any event, the charge was sufficient, as it adequately apprised the jury of the applicable law (*see People v Townsend*, 83 AD3d 969; *People v Calderon*, 182 AD2d 770).

MASTRO, J.P., DILLON, SGROI and MILLER, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court