

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

D32930
N/ct

_____AD3d_____

Submitted - October 25, 2011

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

2008-02346

DECISION & ORDER

The People, etc., respondent,
v Carl Murray, appellant.

(Ind. No. 1898/05)

Steven Banks, New York, N.Y. (Steven R. Berko of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Jeanette Lifschitz, and Rona I. Kugler of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Kron, J.), rendered February 26, 2008, convicting him of criminal possession of a weapon in the second degree and criminal possession of a weapon in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the verdict was against the weight of the evidence is without merit. 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, 348), 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).

The defendant failed to preserve for appellate review his contention that the photograph of the gun allegedly used in the subject incident was improperly admitted into evidence,

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as he did not object to its admission at trial (*see* CPL 470.05[2]; *People v Gray*, 86 NY2d 10, 19; *People v Olavarrueth*, 74 AD3d 1361, 1362; *People v McKanney*, 272 AD2d 629), and we decline to review it in the exercise of our interest of justice jurisdiction.

The defendant was not deprived of the effective assistance of counsel, as defense counsel provided meaningful representation (*see People v Benevento*, 91 NY2d 708; *People v Baldi*, 54 NY2d 137).

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

ENTER:


Matthew G. Kiernan
Clerk of the Court