

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

D33365
C/kmb

_____AD3d_____

Argued - December 2, 2011

MARK C. DILLON, J.P.
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON
L. PRISCILLA HALL, JJ.

2009-01523

DECISION & ORDER

The People, etc., respondent,
v Ricardo Walters, appellant.

(Ind. No. 436/08)

Gail Gray, New York, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Judith R. Sternberg and Sarah S. Rabinowitz of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (McCormack, J.), rendered January 13, 2009, convicting him of robbery in the first degree (four counts), sexual abuse in the first degree (four counts), criminal sexual act in the first degree (two counts), rape in the first degree, kidnapping in the second degree, and attempted kidnapping in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that he was deprived of the effective assistance of counsel by virtue of his attorney's failure to assert certain arguments in challenging the People's motion to consolidate the indictments is without merit. The evidence established that the defendant's counsel provided meaningful representation in opposing the motion (*see People v Henry*, 95 NY2d 563, 565; *People v Benevento*, 91 NY2d 708, 712; *People v Baldi*, 54 NY2d 137, 146-147).

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

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

DILLON, J.P., ANGIOLILLO, DICKERSON and HALL, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court