

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

D33874
N/kmb

_____AD3d_____

Argued - January 18, 2012

REINALDO E. RIVERA, J.P.
RUTH C. BALKIN
LEONARD B. AUSTIN
SHERI S. ROMAN, JJ.

2009-08110

DECISION & ORDER

The People, etc., respondent,
v Kwane Cephus, appellant.

(Ind. No. 2040/08)

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

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

Appeal by the defendant from a judgment of the Supreme Court, Queens County (McGann, J.), rendered August 13, 2009, convicting him of rape in the first degree (two counts), sexual abuse in the second degree (two counts), endangering the welfare of a child, and criminal sexual act in the first degree, after a nonjury trial, and imposing sentence.

ORDERED that the judgment is affirmed.

In this case, the complainant, who was 12 years old at the time of the trial, did not testify. The defendant, who is a cousin of the complainant, contends that certain testimony from the complainant's mother and the investigating detective, in which they recounted the identity of the perpetrator given by the complainant, was inadmissible hearsay and that the admission of such testimony into evidence violated his constitutional rights to due process and confrontation. Any error in admitting this evidence was harmless beyond a reasonable doubt since there was overwhelming evidence of the defendant's guilt, including, inter alia, three separate confessions by the defendant, and there was no reasonable possibility that the error in admitting the evidence contributed to his conviction (*see People v Rice*, 75 NY2d 929, 931; *People v Crimmins*, 36 NY2d

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230, 237; *People v Rayford*, 80 AD3d 780, 781).

The defendant's remaining contention is without merit.

RIVERA, J.P., BALKIN, AUSTIN and ROMAN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court