

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

D33947
N/kmb

_____AD3d_____

Argued - January 23, 2012

PETER B. SKELOS, J.P.
JOHN M. LEVENTHAL
PLUMMER E. LOTT
ROBERT J. MILLER, JJ.

2009-02606

DECISION & ORDER

The People, etc., respondent,
v Francis Cowan, appellant.

(Ind. No. 07-01591)

Law Office of Joshua L. Dratel, P.C., New York, N.Y. (Alice L. Fontier of counsel),
for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Valerie A. Livingston, Laurie
Sapakoff, and Lois Cullen Valerio of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Westchester County
(Neary, J.), rendered February 11, 2009, convicting him of burglary in the second degree, upon a jury
verdict, and imposing sentence. The appeal brings up for review the denial, after a hearing, of that
branch of the defendant's omnibus motion which was to suppress his statements to law enforcement
officials.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, the Supreme Court properly declined to
suppress certain statements he made to law enforcement officials on the ground that they were
obtained in violation of his right to counsel. Although the defendant was represented by an attorney
in connection with another burglary that took place in the Bronx at the time he made the statements,
the law enforcement officials did not question the defendant about the Bronx burglary, and the two
criminal matters were not "so closely related transactionally, or in space or time, that questioning
on the unrepresented matter would all but inevitably elicit incriminating responses regarding the
matter in which there had been an entry of counsel" (*People v Cohen*, 90 NY2d 632, 638; *see People*

v Madison, 22 AD3d 684, 686; *People v Rivera*, 277 AD2d 470, 471-472).

The Supreme Court providently exercised its discretion in precluding certain evidence of third-party culpability, as the evidence was purely speculative and would have caused undue delay, prejudice, and confusion (*see People v Cameron*, 74 AD3d 1223, 1224; *People v Williams*, 64 AD3d 734, 735, *affd* 16 NY3d 480; *People v Decker*, 51 AD3d 686, 687, *affd* 13 NY3d 12).

The defendant's remaining contentions are without merit.

SKELOS, J.P., LEVENTHAL, LOTT and MILLER, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court