

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

D34177
C/nl

_____AD3d_____

Argued - February 7, 2012

MARK C. DILLON, J.P.
ANITA R. FLORIO
LEONARD B. AUSTIN
SHERI S. ROMAN, JJ.

2010-03574

DECISION & ORDER

The People, etc., respondent,
v Humberto Arboleda, appellant.

(Ind. No. 09-00448)

Green & Willstatter, White Plains, N.Y. (Theodore S. Green of counsel), for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Raffaelina Gianfrancesco and Richard Longworth Hecht of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Westchester County (Zambelli, J.), rendered March 16, 2010, convicting him of assault in the second degree and reckless endangerment in the second degree, after a nonjury trial, and imposing sentence.

ORDERED that the judgment is affirmed.

Viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620), we find that it was legally sufficient to establish the defendant's guilt of assault in the second degree and reckless endangerment in the second degree beyond a reasonable doubt. Moreover, 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 fact-finder'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).

Furthermore, the defendant was not deprived of the effective assistance of counsel,

March 20, 2012

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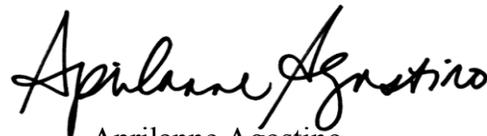
as defense counsel provided meaningful representation (*see People v Benevento*, 91 NY2d 708; *People v Baldi*, 54 NY2d 137).

The defendant's contention regarding the allegedly improper admission of the victim's statement to a police officer is without merit (*see Davis v Washington*, 547 US 813, 822).

The defendant's remaining contention is without merit.

DILLON, J.P., FLORIO, AUSTIN and ROMAN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court