

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

D34728
O/kmb

_____AD3d_____

Submitted - March 26, 2012

REINALDO E. RIVERA, J.P.
L. PRISCILLA HALL
PLUMMER E. LOTT
LEONARD B. AUSTIN, JJ.

2010-03044
2010-03045

DECISION & ORDER

The People, etc., respondent,
v John E. Vantassel, Jr., appellant.

(Ind. Nos. 52/08, 75/08)

Del Atwell, East Hampton, N.Y., for appellant.

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Kirsten A. Rappleyea of counsel), for respondent.

Appeals by the defendant from two judgments of the County Court, Dutchess County (Hayes, J.), both rendered February 19, 2010, convicting him of burglary in the second degree under Indictment No. 52/08, and burglary in the second degree (nine counts) under Indictment No. 75/08, upon jury verdicts, and imposing sentences.

ORDERED that the judgments are 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 beyond a reasonable doubt. Moreover, upon our independent review pursuant to CPL 470.15(5), we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633). The testimony of the defendant's accomplice was sufficiently corroborated by testimony identifying the vehicle used during each of the burglaries and by evidence that several of the items stolen during the burglaries were recovered in the defendant's home (*see CPL 60.22[1]; People v Brown*, 62 AD3d 1089, 1090-1091; *see also People v Reome*, 15 NY3d 188, 191-192; *People v Breland*, 83 NY2d 286, 292-294; *People v Steinberg*, 79 NY2d 673, 683; *People v Morales*, 86 AD3d 147, 162, *lv granted* 17 NY3d 904; *People v Delgado*, 50 AD3d 915, 917; *People*

v Montefusco, 44 AD3d 879, 880).

The defendant's contention that the County Court erred in failing to provide the jury with a charge on accessorial liability is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Brown*, 232 AD2d 750, 752; *People v Graham*, 122 AD2d 162) and, in any event, is without merit.

The sentences imposed were not excessive (*see People v Suitte*, 90 AD2d 80).

The defendant's remaining contentions are without merit.

RIVERA, J.P., HALL, LOTT and AUSTIN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court