

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

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Submitted - May 4, 2012

PETER B. SKELOS, J.P.
JOHN M. LEVENTHAL
ARIEL E. BELEN
SHERI S. ROMAN, JJ.

2010-07388

DECISION & ORDER

The People, etc., respondent,
v Charles Judd, appellant.

(Ind. No. 2977/09)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Jodi L. Mandel, and Terrence F. Heller of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Firetog, J.), rendered July 19, 2010, convicting him of murder in the second degree (two counts) and robbery in the first degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the People's contention, the defendant preserved for appellate review his contention that the trial court should have redacted his videotaped confession so as to omit references to possible prior robberies (*see* CPL 470.05[2]). Further, we agree with the defendant that the trial court erred in refusing to redact those portions of the statement, as they did not relate to a relevant and material issue in the case (*see People v Cass*, 18 NY3d 553, 559-560; *People v Alvino*, 71 NY2d 233, 241-242; *People v Ventimiglia*, 52 NY2d 350, 359-360; *People v Molineux*, 168 NY 264, 297-305). However, the error was harmless because there was overwhelming evidence of the defendant's guilt, and no significant probability that the error contributed to his convictions (*see People v Arafet*, 13 NY3d 460, 467; *People v Crimmins*, 36 NY2d 230, 250).

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

The defendant's remaining contention is without merit.

SKELOS, J.P., LEVENTHAL, BELEN and ROMAN, JJ., concur.

ENTER:

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

Aprilanne Agostino
Clerk of the Court