

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

D35541
O/ct

_____AD3d_____

Argued - June 7, 2012

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
RANDALL T. ENG
SHERI S. ROMAN, JJ.

2011-00893

DECISION & ORDER

The People, etc., respondent,
v Desiree Miranda, appellant.

(Ind. No. 09-00540)

John R. Lewis, Sleepy Hollow, N.Y., for appellant.

Francis D. Phillips II, District Attorney, Goshen, N.Y. (Andrew R. Kass of counsel),
for respondent.

Appeal by the defendant from a judgment of the County Court, Orange County (DeRosa, J.), rendered August 19, 2010, convicting her of assault in the second degree (two counts), reckless endangerment in the first degree, and endangering the welfare of a child (three counts), upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

There is no merit to the defendant's contention that her conviction of reckless endangerment in the first degree (*see* Penal Law § 120.25) is not supported by legally or factually sufficient evidence. 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 prove the defendant's guilt of reckless endangerment in the first 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, 348), we nevertheless accord great deference to the jury's opportunity to view the witnesses, hear the testimony, and observe demeanor (*see People v Mateo*, 2 NY3d 383, *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 as to reckless endangerment in the first degree was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

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The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80, 85-86).

RIVERA, J.P., FLORIO, ENG and ROMAN, 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