

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

D36357
N/ct

_____AD3d_____

Submitted - October 4, 2012

RANDALL T. ENG, P.J.
MARK C. DILLON
PLUMMER E. LOTT
JEFFREY A. COHEN, JJ.

2009-02087

DECISION & ORDER

The People, etc., respondent,
v Sulla Fully, appellant.

(Ind. No. 170/08)

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

Daniel M. Donovan, Jr., District Attorney, Staten Island, N.Y. (Morrie I. Kleinbart and Michael Shollar of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Richmond County (Collini, J.), rendered February 20, 2009, convicting him of assault in the second degree, attempted robbery in the third degree, resisting arrest, and criminal possession of a controlled substance in the seventh degree, upon a jury verdict, 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 attempted robbery in the third degree beyond a reasonable doubt (*see* Penal Law § 160.00; *People v Samuel*, 84 AD3d 841; *People v Barksdale*, 50 AD3d 400, 401). 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 factfinder'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 with respect to the convictions of assault in the second degree and attempted robbery in the third degree was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

November 7, 2012

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ENG, P.J., DILLON, LOTT and COHEN, 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