

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

D36385  
G/ct

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - October 5, 2012

DANIEL D. ANGIOLILLO, J.P.  
PLUMMER E. LOTT  
LEONARD B. AUSTIN  
ROBERT J. MILLER, JJ.

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2012-00991

DECISION & ORDER

The People, etc., respondent,  
v Mona Kanciper, appellant.

(Ind. No. 1875-10)

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Laurie S. Hershey, Manhasset, N.Y., for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Karla Lato of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Hudson, J.), rendered January 24, 2012, convicting her of endangering the welfare of a child, after a nonjury trial, and imposing sentence.

ORDERED that the judgment is reversed, on the law, the indictment is dismissed, and the matter is remitted to the County Court, Suffolk County, for the purpose of entering an order in its discretion pursuant to CPL 160.50.

The defendant was convicted of endangering the welfare of a child after she injected a dog with a tranquilizer in the presence of a child. Viewed in the light most favorable to the People (*see People v Contes*, 60 NY2d 620, 621), the evidence failed to establish that witnessing the injection of the tranquilizer was likely to result in harm to the physical, mental, or moral welfare of the child (*see Penal Law § 260.10[1]*; *People v Hitchcock*, 98 NY2d 586, 590-591). There was no evidence demonstrating that the child was aware, at the time she witnessed the injection, that the defendant intended to euthanize the dog later that day, or that she was upset by seeing the dog receive the tranquilizer injection. The child was familiar with medical treatments requiring injections, as she had seen her own pet dog injected on many occasions to treat his diabetes. Consequently, the evidence supporting the defendant's conviction was not legally sufficient (*see*

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*People v Contes*, 60 NY2d at 621).

In light of our determination, we need not address the defendant's remaining contentions.

ANGIOLILLO, J.P., LOTT, AUSTIN and MILLER, 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