

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

D36658  
G/kmb

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Argued - October 23, 2012

WILLIAM F. MASTRO, J.P.  
REINALDO E. RIVERA  
CHERYL E. CHAMBERS  
PLUMMER E. LOTT, JJ.

2011-04164

DECISION & ORDER

The People, etc., respondent,  
v David Jarvis, appellant.

(Ind. No. 2739/09)

Marianne Karas, Thornwood, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Robert A. Schwartz and Ames C. Grawert of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Nassau County (Ayres, J.), rendered April 15, 2011, convicting him of attempted robbery in the first degree and attempted robbery in the second degree, after a nonjury trial, 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, 621), we find that it was legally sufficient to establish beyond a reasonable doubt that the defendant manifested the requisite criminal intent (*see People v Bracey*, 41 NY2d 296, 301; *People v Mendez*, 34 AD3d 697, 698; *People v Coulter*, 240 AD2d 756). 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, 644-645). Any discrepancies between the complainant's prior statements to a police officer, the complainant's grand jury testimony, and the complainant's trial testimony "were not of such magnitude as to render the complainant's testimony incredible or unreliable" (*People v Scipio*, 61 AD3d 899, 899). Moreover, the discrepancies were insufficient to render the complainant's testimony perjurious (*see Penal Law §§ 210.05, 210.10, 210.15; People v Scipio*, 61 AD3d at 899; *People v Hansen*, 290 AD2d 47, 51-52; *People v Bishop*, 206 AD2d 884, 885; *People v Kitchen*, 162 AD2d 178, 179).

December 5, 2012

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The defendant's remaining contentions are without merit.

MASTRO, J.P., RIVERA, CHAMBERS and LOTT, 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