

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

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_____AD3d_____

Argued - November 5, 2012

PETER B. SKELOS, J.P.
RUTH C. BALKIN
THOMAS A. DICKERSON
SYLVIA HINDS-RADIX, JJ.

2011-10028

DECISION & ORDER

The People, etc., respondent,
v Gregorio Moreno, appellant.

(Ind. No. 2386/10)

Randall D. Unger, Bayside, N.Y., for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Emil Bricker, and Sharon Y. Brodt of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County, rendered October 3, 2011 (Blumenfeld, J.), convicting him of robbery in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the evidence was legally insufficient to establish that he used physical force in the commission of the subject robbery is without merit. His other contentions relating to the legal sufficiency of the evidence are unpreserved for appellate review (*see People v Becoats*, 17 NY3d 643, *cert denied* ___US___, 132 S Ct 1970; *People v Hawkins*, 11 NY3d 484, 492; *People v Gray*, 86 NY2d 10, 19). In any event, 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 the defendant's guilt 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), 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, 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 was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

The defendant's contention that the Supreme Court's comments to a prospective juror disparaged the importance of a jury verdict is unpreserved for appellate review (*see People v Hawkins*, 11 NY3d at 492) and, in any event, is without merit (*cf. People v Johnson*, 284 NY 182, 188; *People v Rutledge*, 179 AD2d 404).

The defendant's remaining contention is without merit.

SKELOS, J.P., BALKIN, DICKERSON and HINDS-RADIX, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court