

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

D36823
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_____AD3d_____

Argued - November 29, 2012

RANDALL T. ENG, P.J.
DANIEL D. ANGIOLILLO
SANDRA L. SGROI
SYLVIA HINDS-RADIX, JJ.

2010-04487

DECISION & ORDER

The People, etc., respondent,
v Jose Luis Barreto-Mejia, appellant.

(Ind No. 08-01227)

Pappalardo & Pappalardo, LLP, Scarsdale, N.Y. (John P. Devaney and Jill K. Sanders of counsel), for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Maria I. Wagner, Steven A. Bender, and Richard Longworth Hecht of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Westchester County (Neary, J.), rendered April 21, 2010, convicting him of course of sexual conduct against a child in the first degree (two counts) and endangering the welfare of a child (two counts), upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contentions, the trial court properly determined that the then-10 year-old complainant was a vulnerable child witness within the meaning of CPL 65.20 based upon the testimony and evidence presented at the hearing, which collectively established, by clear and convincing evidence, several of the 12 factors cited in CPL 65.20(10) (*see* CPL 65.20[10]; *People v Cintron*, 75 NY2d 249, 267; *People v Ramos*, 203 AD2d 599; *People v Lindstadt*, 174 AD2d 696, 697; *People v Guce*, 164 AD2d 946, 947). Accordingly, that complainant was properly permitted to testify via two-way closed-circuit television, and the defendant's constitutional right to confrontation was not violated.

December 19, 2012

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The defendant's remaining contentions are without merit.

ENG, P.J., ANGIOLILLO, SGROI and HINDS-RADIX, 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