

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

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_____AD3d_____

Argued - October 27, 2017

CHERYL E. CHAMBERS, J.P.
JEFFREY A. COHEN
BETSY BARROS
LINDA CHRISTOPHER, JJ.

2010-04839

DECISION & ORDER

The People, etc., respondent,
v Deshaun Morris, appellant.

(Ind. No. 4336/08)

Paul Skip Laisure, New York, NY (Erica Horwitz of counsel), for appellant.

Eric Gonzalez, District Attorney, Brooklyn, NY (Leonard Joblove and Keith Dolan of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Albert Tomei, J.), rendered May 12, 2010, convicting him of murder in the second degree and criminal possession of a weapon in the second 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 murder in the second degree (*see* Penal Law § 125.25[1]) beyond a reasonable doubt (*see People v Hale*, 147 AD3d 975; *People v Leddy*, 47 AD3d 842). Additionally, in fulfilling our responsibility to conduct an independent review of the weight of the evidence (*see* CPLR 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; *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, 643-644).

January 17, 2018

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The defendant's contention that his right to due process was violated by alleged prosecutorial misconduct on summation is unpreserved for appellate review (*see* CPL 470.05[2]), as the defendant failed to object, request curative instructions, or timely move for a mistrial (*see People v Dunning*, 148 AD3d 1047, 1048), and we decline to review the contention in the exercise of our interest of justice jurisdiction (*see* CPL 470.15[3][c]; [6]; *People v Grant*, 152 AD3d 792, 793; *People v Jones*, 139 AD3d 878, 880; *People v Ellis*, 133 AD3d 777, 778; *People v Belle*, 113 AD3d 630, 631).

The Supreme Court properly denied the defendant's motion for a mistrial (*see People v Pleasant*, 146 AD3d 985, 986).

CHAMBERS, J.P., COHEN, BARROS and CHRISTOPHER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court