

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

D54551
M/htr

_____AD3d_____

Argued - October 31, 2017

JOHN M. LEVENTHAL, J.P.
LEONARD B. AUSTIN
JOSEPH J. MALTESE
ANGELA G. IANNACCI, JJ.

2014-02763

DECISION & ORDER

The People, etc., respondent,
v Julio Diaz, appellant.

(Ind. No. 8015/12)

Paul Skip Laisure, New York, NY (William Kastin of counsel), for appellant.

Eric Gonzalez, District Attorney, Brooklyn, NY (Leonard Joblove and Rhea A. Grob of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Danny K. Chun, J.), rendered March 12, 2014, convicting him of murder in the second degree, upon a jury verdict, and imposing sentence.

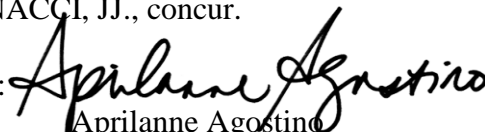
ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, the trial court properly admitted evidence of a prior altercation between the defendant and the victim, where the defendant chased the victim and struck him in the head with a bat. This evidence was probative of the defendant's motive and intent, provided necessary background information on the nature of their relationship, and placed the charged conduct in context (*see People v Dorm*, 12 NY3d 16, 19; *People v Williams*, 27 AD3d 673; *People v James*, 19 AD3d 616). Moreover, the probative value of the uncharged crime evidence outweighed the prejudice to the defendant, particularly considering the trial court's limiting instruction (*see People v Dorm*, 12 NY3d at 19; *People v Alvino*, 71 NY2d 233, 242; *People v Rock*, 65 AD3d 558, 559).

The sentence imposed was not excessive (*see People v Suite*, 90 AD2d 80).

LEVENTHAL, J.P., AUSTIN, MALTESE and IANNACCI, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

February 7, 2018

PEOPLE v DIAZ, JULIO