

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

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N/htr

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Submitted - November 14, 2017

LEONARD B. AUSTIN, J.P.
SHERI S. ROMAN
SANDRA L. SGROI
VALERIE BRATHWAITE NELSON, JJ.

2015-04404

DECISION & ORDER

The People, etc., respondent,
v Alex Garcia, appellant.

(Ind. No. 1730/13)

Paul Skip Laisure, New York, NY (Erin Tomlinson of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, NY (John M. Castellano, Johnnette Traill, William H. Branigan, and Amy E. Markel of counsel), for respondent.

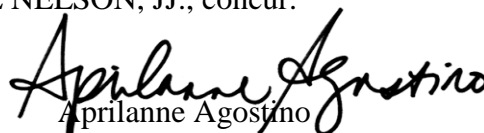
Appeal by the defendant from a judgment of the Supreme Court, Queens County (Michael B. Aloise, J.), rendered May 11, 2015, convicting him of attempted assault in the second degree and menacing in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620, 621), we find that it was legally sufficient to establish beyond a reasonable doubt the defendant's guilt of attempted assault in the second degree (*see* Penal Law §§ 110.00, 120.05[1]; CPL 470.15[2][b]). 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, 348-349), we nevertheless accord great deference to the opportunity of the finder of fact to view the witnesses, hear 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 guilty as to that crime was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

AUSTIN, J.P., ROMAN, SGROI and BRATHWAITE NELSON, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

March 7, 2018

PEOPLE v GARCIA, ALEX