

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

D55935  
T/htr

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - March 16, 2018

JOHN M. LEVENTHAL, J.P.  
ROBERT J. MILLER  
COLLEEN D. DUFFY  
HECTOR D. LASALLE, JJ.

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2014-01410

DECISION & ORDER

The People, etc., respondent,  
v Ralph Hugginis, appellant.

(Ind. No. 2212/11)

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Paul Skip Laisure, New York, NY (Patricia Pazner of counsel), for appellant.

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

Appeal by the defendant from a judgment of the Supreme Court, Queens County (James P. Griffin, J.), rendered January 30, 2014, convicting him of robbery in the first degree (two counts), attempted robbery in the first degree, robbery in the second degree (two counts), attempted robbery in the second degree, criminal possession of a weapon in the second degree (two counts), and criminal possession of stolen property in the fifth degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant contends that the Supreme Court improperly discharged a sworn juror mid-trial based on her absence due to illness without fully ascertaining her ability to continue as a juror despite her illness. However, as this Court previously determined on the appeal of a codefendant with whom the defendant was tried (*see People v Walker*, 141 AD3d 678), the Supreme Court conducted a reasonably thorough inquiry into the juror's unavailability and providently exercised its discretion in replacing the juror after determining that the juror was not likely to appear within the two-hour period set forth in CPL 270.35(2) (*see People v Jeanty*, 94 NY2d 507).

July 11, 2018

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The defendant's contention that he was deprived of a fair trial by certain summation remarks made by the prosecutor is unpreserved for appellate review since counsel either failed to object to the comments or failed to object with sufficient specificity (*see People v Charlton*, 27 AD3d 658). In any event, the challenged remarks either were within the bounds of permissible rhetorical comment, were fair comment on the evidence and the reasonable inferences to be drawn therefrom, were fair response to the defense summation, or otherwise did not deprive the defendant of a fair trial (*see People v Hawley*, 112 AD3d 968).

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

The defendant's remaining contention is without merit.

LEVENTHAL, J.P., MILLER, DUFFY and LASALLE, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court