

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

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_____AD3d_____

Argued - April 17, 2018

CHERYL E. CHAMBERS, J.P.
SANDRA L. SGROI
JOSEPH J. MALTESE
FRANCESCA E. CONNOLLY, JJ.

2015-05656

DECISION & ORDER

The People, etc., respondent,
v Atiba Brown, appellant.

(Ind. No. 3760/11)

Paul Skip Laisure, New York, NY (Alan Chevat and David P. Greenberg of counsel),
for appellant.

Eric Gonzalez, District Attorney, Brooklyn, NY (Leonard Joblove, Morgan J.
Dennehy, and Terrence F. Heller of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County
(Albert Tomei, J.), rendered June 25, 2015, convicting him of manslaughter in the first degree, upon
a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention regarding the propriety of the jury verdict is unpreserved
for appellate review, as he failed to raise this issue before the discharge of the jury (*see People v*
Alfaro, 66 NY2d 985, 987; *People v Satloff*, 56 NY2d 745, 746; *People v Jacobs*, 128 AD3d 850,
850; *People v Boley*, 116 AD3d 965, 966), and, in any event, without merit.


The defendant's contention that the Supreme Court, by the sentence it imposed after
trial, penalized him for exercising his right to a trial is unpreserved for appellate review (*see People*
v Hurley, 75 NY2d 887, 888; *People v Arnold*, 139 AD3d 748, 750; *People v Prince*, 128 AD3d 987,
988). In any event, the record does not indicate any retaliation or vindictiveness against the
defendant for electing to proceed to trial (*see People v Seymore*, 106 AD3d 1033, 1034; *People v*

Griffin, 98 AD3d 688, 690).

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

CHAMBERS, J.P., SGROI, MALTESE and CONNOLLY, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court