

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

D57151  
Q/htr

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

Argued - September 25, 2018

RUTH C. BALKIN, J.P.  
SANDRA L. SGROI  
ROBERT J. MILLER  
FRANCESCA E. CONNOLLY, JJ.

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2016-00699

DECISION & ORDER

The People, etc., respondent,  
v David Young, appellant.

(Ind. No. 2242/14)

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Paul Skip Laisure, New York, NY (Laura B. Indelicati of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, NY (John M. Castellano, Johnette Traill, Ellen C. Abbot, and Timothy R. McGrath of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Joel L. Blumenfeld, J.), rendered December 21, 2015, convicting him of robbery in the first degree, after a nonjury trial, and imposing sentence.


ORDERED that the judgment is affirmed.

The defendant was convicted of robbery in the first degree after a nonjury trial. On appeal, he contends that, in reaching its verdict, the trial court improperly shifted the burden of proof to him and violated his right against self-incrimination.

“[I]n a bench trial, it is presumed that the Judge sitting as the trier of fact made [her or] his decision based upon appropriate legal criteria” (*People v Lucas*, 291 AD2d 890, 891 [internal quotation marks omitted]; see generally *People v Moreno*, 70 NY2d 403, 406). Here, the record as a whole—which includes the trial judge’s unequivocal statements that the defendant had no obligation to testify and that the People proved the defendant’s guilt beyond a reasonable

doubt—does not reflect that the court shifted the burden of proof or convicted the defendant based upon his failure to testify (*see People v Williams*, 122 AD3d 647; *cf. People v Fields*, 87 NY2d 821, 823).

BALKIN, J.P., SGROI, MILLER and CONNOLLY, JJ., concur.

ENTER:   
Aprilanne Agostino  
Clerk of the Court