

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

D57225
T/afa

_____AD3d_____

Argued - September 25, 2018

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

2015-03580

DECISION & ORDER

The People, etc., respondent,
v Robert Robinson, appellant.

(Ind. No. 10280/12)

Calhoun & Lawrence, LLP, White Plains, NY (Clinton W. Calhoun III of counsel),
for appellant.

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

Appeal by the defendant from a judgment of the Supreme Court, Queens County
(James P. Griffin, J.), rendered April 1, 2015, convicting him of criminal possession of a controlled
substance in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the People failed to establish that he knowingly
possessed cocaine that weighed one-half ounce or more is unpreserved for appellate review (*see* CPL
470.05[2]; Penal Law § 220.16[12]; *People v Gray*, 86 NY2d 10; *People v Estrella*, 303 AD2d 689).
In any event, viewing the evidence in the light most favorable to the prosecution (*see People v*
Contes, 60 NY2d 620, 621), there was legally sufficient evidence that the defendant knowingly
possessed a substance containing cocaine and that the substance weighed one-half ounce or more
(*see People v Foster*, 153 AD3d 853, 854). Moreover, upon the exercise of our factual review power
(*see* CPL 470.15[5]), we are satisfied that the verdict of guilt was not against the weight of the
evidence (*see People v Romero*, 7 NY3d 633).

November 7, 2018

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The defendant's contention that he received ineffective assistance of counsel is without merit. On this record, the defendant failed to demonstrate "the absence of strategic or other legitimate explanations" for counsel's alleged shortcoming (*People v Rivera*, 71 NY2d 705, 709; see *People v Caban*, 5 NY3d 143, 152).

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

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court