

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

D57528
C/htr

_____AD3d_____

Argued - September 11, 2018

MARK C. DILLON, J.P.
SHERI S. ROMAN
ROBERT J. MILLER
COLLEEN D. DUFFY, JJ.

2016-07438

DECISION & ORDER

The People, etc., respondent,
v Anthony Wearon, also known as Anthony
Wearen, appellant.

(Ind. No. 1149/14)

Joseph A. Hanshe, Sayville, NY, for appellant.

Madeline Singas, District Attorney, Mineola, NY (Jason R. Richards and John B. Latella of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Nassau County (Teresa K. Corrigan, J.), rendered June 23, 2016, convicting him of burglary in the second degree and criminal mischief in the fourth degree, and imposing sentence.

ORDERED that the judgment is affirmed.

During the afternoon of July 8, 2014, the defendant was apprehended by police inside a home located in Floral Park. He was charged with burglary in the second degree, burglary in the third degree, and criminal mischief in the fourth degree. After a jury trial, the defendant was convicted of burglary in the second degree and criminal mischief in the fourth degree.

Viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620), we find that it was legally sufficient to establish the defendant's guilt of burglary in the second degree beyond a reasonable doubt. "A person is guilty of burglary in the second degree when he knowingly enters or remains unlawfully in a building with intent to commit a crime therein" (Penal Law § 140.25), and "[t]he building is a dwelling" (Penal Law § 140.25 [2]). The building in which the defendant was apprehended was a dwelling, and he does not contend

otherwise.

An intent to commit a crime can be inferred from the circumstances of the case (*see People v Brown*, 36 AD3d 930, 931). Here, the defendant's intent to commit a crime inside the dwelling could be inferred from a pillow case on a bedroom floor that either contained, or was in close proximity to, jewelry that had been removed from a jewelry box, as well as the defendant's admission that he intended to steal the jewelry for money to buy either clothes or heroin. Moreover, upon our independent review pursuant to CPL 470.15(5), we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Danielson*, 9 NY3d 342, 348; *People v Romero*, 7 NY3d 633).

The defendant's remaining contentions are unpreserved for appellate review and, in any event, without merit.

DILLON, J.P., ROMAN, MILLER and DUFFY, 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