

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

D57742
M/htr

_____AD3d_____

Argued - September 27, 2018

ALAN D. SCHEINKMAN, P.J.
MARK C. DILLON
JEFFREY A. COHEN
LINDA CHRISTOPHER, JJ.

2013-10829

DECISION & ORDER

The People, etc., respondent,
v Samuel Lewis, appellant.

(Ind. No. 12-00662)

Mary Zugibe Raleigh, Warwick, NY, for appellant, and appellant pro se.

David M. Hoovler, District Attorney, Goshen, NY (Robert H. Middlemiss of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Orange County (Nicholas De Rosa, J.), rendered October 31, 2013, convicting him of criminal possession of a weapon in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the People failed to present legally sufficient evidence to sustain his conviction is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Hawkins*, 11 NY3d 484, 492; *People v Beam*, 78 AD3d 1067, 1068; *People v Jackson*, 50 AD3d 700, 701). In any event, 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 beyond a reasonable doubt. Moreover, in fulfilling our responsibility to conduct an independent review of the weight of the evidence (*see* CPL 470.15[5]; *People v Danielson*, 9 NY3d 342), we nevertheless accord great deference to the jury's opportunity to view the witnesses, hear the testimony, and observe demeanor (*see People v Mateo*, 2 NY3d 383; *People v Bleakley*, 69 NY2d 490, 495). Upon reviewing the record here, we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

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

The defendant's contention, raised in his pro se supplemental brief, that the County Court violated the procedures set forth in *People v O'Rama* (78 NY2d 270) is unpreserved for appellate review (*see People v Simmons*, 97 AD3d 842, 843) and, in any event, without merit. Further, contrary to the defendant's contention, raised in his pro se supplemental brief, he was not deprived of the effective assistance of counsel (*see Strickland v Washington*, 466 US 668; *People v Baldi*, 54 NY2d 137, 147).

SCHEINKMAN, P.J., DILLON, COHEN and CHRISTOPHER, 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