

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

968

KA 10-00463

PRESENT: SCUDDER, P.J., FAHEY, SCONIERS, AND VALENTINO, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

WILLIAM J. CAMPBELL, JR., DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (DAVID R. JUERGENS OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (AMANDA DREHER OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Monroe County Court (John J. Connell, J.), rendered May 8, 2009. The judgment convicted defendant, upon a jury verdict, of criminal possession of a weapon in the second degree and criminal possession of a weapon in the third degree (two counts).

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting him, upon a jury verdict, of criminal possession of a weapon in the second degree (Penal Law § 265.03 [3]) and two counts of criminal possession of a weapon in the third degree (§ 265.02 [1], [3]). Viewing the evidence in light of the elements of the crimes as charged to the jury (see *People v Danielson*, 9 NY3d 342, 349), and affording deference to the jury's credibility determinations (see *People v Wedlington*, 67 AD3d 1472, 1473, *lv denied* 14 NY3d 807), we reject defendant's contention that the verdict is against the weight of the evidence (see generally *People v Bleakley*, 69 NY2d 490, 495). "Although there was conflicting testimony and thus 'an acquittal would not have been unreasonable' " (*People v Burroughs*, 57 AD3d 1459, 1460, *lv denied* 12 NY3d 756, quoting *Danielson*, 9 NY3d at 348), the verdict is supported by the weight of the credible evidence, i.e., the testimony of the evidence technician, security guard, and two police officers that defendant was found shortly after the shooting, albeit unconscious from a gunshot wound to the head, with a fully loaded defaced pistol on his lap.

Entered: October 4, 2013

Frances E. Cafarell
Clerk of the Court