

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

**882**

**KA 17-00931**

PRESENT: WHALEN, P.J., CENTRA, NEMOYER, TROUTMAN, AND WINSLOW, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

AZYA M. GILBERT, ALSO KNOWN AS AZYA JACKSON/AZYA  
GILBERT-JACKSON, DEFENDANT-APPELLANT.

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TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (DANIELLE C. WILD OF  
COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (KAYLAN C. PORTER OF  
COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Monroe County  
(Francis A. Affronti, J.), rendered March 7, 2017. The judgment  
convicted defendant upon a jury verdict of manslaughter in the first  
degree.

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

Memorandum: Defendant appeals from a judgment convicting her  
upon a jury verdict of manslaughter in the first degree (Penal Law  
§ 125.20 [1]). Defendant contends that the verdict is against the  
weight of the evidence with respect to her intent to cause serious  
physical injury. Viewing the evidence in light of the elements of the  
crime as charged to the jury (*see People v Danielson*, 9 NY3d 342, 349  
[2007]), we conclude that the verdict is not against the weight of the  
evidence (*see generally People v Bleakley*, 69 NY2d 490, 495 [1987]).  
Given the number, depth, and severity of the stab wounds here, it  
cannot be said that the jury "failed to give the evidence the weight  
it should be accorded" (*id.*; *see People v Angel*, 185 AD2d 356, 358 [2d  
Dept 1992], *lv denied* 80 NY2d 1025 [1992]).

Defendant failed to preserve for our review her further  
contention that she was denied a fair trial by alleged instances of  
prosecutorial misconduct (*see CPL 470.05 [2]; People v Hall*, 169 AD3d  
1379, 1380 [4th Dept 2019], *lv denied* 33 NY3d 976 [2019]; *People v*  
*Keels*, 128 AD3d 1444, 1445 [4th Dept 2015], *lv denied* 26 NY3d 969  
[2015]), and we decline to exercise our power to review that  
contention as a matter of discretion in the interest of justice (*see*  
CPL 470.15 [6] [a]).

Finally, the sentence is not unduly harsh or severe.

Entered: November 12, 2021

Ann Dillon Flynn  
Clerk of the Court