

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

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KA 22-01389

PRESENT: LINDLEY, J.P., MONTOUR, OGDEN, GREENWOOD, AND KEANE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JAMIL KNOX, DEFENDANT-APPELLANT.

JULIE CIANCA, PUBLIC DEFENDER, ROCHESTER (BRIAN SHIFFRIN OF COUNSEL),
FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (RYAN P. ASHE OF
COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Monroe County Court (Karen Bailey Turner, J.), rendered August 4, 2022. The judgment convicted defendant, upon a nonjury verdict, of manslaughter in the first degree and criminal possession of a weapon in the second 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 nonjury verdict, of manslaughter in the first degree (Penal Law § 125.20 [1]) and two counts of criminal possession of a weapon in the second degree (§ 265.03 [1] [b]; [3]).

Defendant failed to preserve for our review his contention that the evidence is legally insufficient to support the conviction inasmuch as he failed to renew his motion for a trial order of dismissal after presenting evidence (*see People v Hines*, 97 NY2d 56, 61 [2001], *rearg denied* 97 NY2d 678 [2001]; *People v Brooks*, 139 AD3d 1391, 1392-1393 [4th Dept 2016], *lv denied* 28 NY3d 1026 [2016]; *People v Nichols*, 89 AD3d 1503, 1504 [4th Dept 2011]). Nevertheless, "we necessarily review the evidence adduced as to each of the elements of the crimes in the context of our review of defendant's challenge regarding the weight of the evidence" (*People v Desmond*, 224 AD3d 1303, 1304 [4th Dept 2024], *lv denied* 41 NY3d 964 [2024] [internal quotation marks omitted]; *see People v Danielson*, 9 NY3d 342, 349-350 [2007]). Viewing the evidence in light of the elements of the crimes in this nonjury trial (*see Danielson*, 9 NY3d at 349), we reject defendant's contention that the verdict is against the weight of the evidence (*see generally People v Bleakley*, 69 NY2d 490, 495 [1987]).

Defendant further contends that Penal Law § 265.03 is unconstitutional in light of the United States Supreme Court's

decision in *New York State Rifle & Pistol Assn., Inc. v Bruen* (597 US 1 [2022]). Inasmuch as defendant failed to raise a constitutional challenge to the statute before County Court, any such contention is not preserved for our review (see *People v Jacque-Crews*, 213 AD3d 1335, 1335-1336 [4th Dept 2023], *lv denied* 39 NY3d 1111 [2023]; *People v Reinard*, 134 AD3d 1407, 1409 [4th Dept 2015], *lv denied* 27 NY3d 1074 [2016], *cert denied* 580 US 969 [2016]), and we decline to exercise our power to review defendant's unpreserved contention as a matter of discretion in the interest of justice (see CPL 470.15 [6] [a]).

Entered: June 27, 2025

Ann Dillon Flynn
Clerk of the Court