

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

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KA 21-00768

PRESENT: WHALEN, P.J., LINDLEY, MONTOUR, NOWAK, AND KEANE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ANDRE J. ANDERSON, DEFENDANT-APPELLANT.

TINA L. HARTWELL, PUBLIC DEFENDER, UTICA (DAVID A. COOKE OF COUNSEL),
FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (BRADLEY W.
OASTLER OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Oneida County Court (Michael L. Dwyer, J.), rendered December 9, 2019. The judgment convicted defendant upon a jury verdict of murder in the first degree (two counts), arson in the first degree and arson in the second degree.

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

Memorandum: Defendant appeals from a judgment convicting him after a jury trial of two counts of murder in the first degree (Penal Law § 125.27 [1] [a] [vii], [x]; [b]), one count of arson in the first degree (§ 150.20 [1]), and one count of arson in the second degree (§ 150.15).

Although defendant contends that his conviction of murder in the first degree under count 2 of the indictment is not supported by legally sufficient evidence, his general motion to dismiss at the close of the People's case did not preserve for our review his specific challenge on appeal (*see People v Bubis*, 204 AD3d 1492, 1493-1494 [4th Dept 2022], *lv denied* 38 NY3d 1149 [2022]). In any event, we conclude that the contention lacks merit (*see generally People v Bleakley*, 69 NY2d 490, 495 [1987]). Contrary to defendant's further contention, viewing the evidence in light of the elements of the crimes 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 Bleakley*, 69 NY2d at 495).

Finally, we reject defendant's contention that the sentence is unduly harsh and severe.