

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

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KA 18-00300

PRESENT: SMITH, J.P., LINDLEY, NEMOYER, CURRAN, AND DEJOSEPH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

LEMORRIS DEXTER, DEFENDANT-APPELLANT.

FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (SARA A. GOLDFARB OF COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (DARIENN P. BALIN OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Onondaga County (John J. Brunetti, A.J.), rendered September 8, 2017. The judgment convicted defendant, upon a jury verdict, of criminal possession of a forged instrument in the second degree and offering a false instrument for filing in the first degree.

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 forged instrument in the second degree (Penal Law § 170.25) and offering a false instrument for filing in the first degree (§ 175.35 [1]). We affirm.

Viewing the evidence independently and in light of the elements of the crimes as charged to the jury (see *People v Danielson*, 9 NY3d 342, 349 [2007]; *People v Beckwith*, 182 AD3d 995, 995 [4th Dept 2020]), we reject defendant's contention that the verdict is against the weight of the evidence on the knowledge element of each crime (see *People v Rice*, 105 AD3d 1443, 1444 [4th Dept 2013], *lv denied* 21 NY3d 1076 [2013]; *People v Moore*, 41 AD3d 1202, 1203-1204 [4th Dept 2007], *lv denied* 9 NY3d 879 [2007]; see generally *People v Silberzweig*, 58 AD3d 762, 762-763 [2d Dept 2009], *lv denied* 12 NY3d 920 [2009]). Notably, defendant does not challenge the jury's determination that the People proved beyond a reasonable doubt that he filed a forged and false deed with intent to defraud (see generally Penal Law §§ 170.25, 175.35 [1]; *People v Dallas*, 46 AD3d 489, 491 [1st Dept 2007], *lv denied* 10 NY3d 809 [2008], *reconsideration denied* 10 NY3d 933 [2008]). We further note that the People's brief incorrectly states that, in conducting our weight of the evidence review, "[t]he jury's determinations should be given great weight . . . and should not be disturbed unless clearly unsupported by the record" (see *People v*

Gant, 189 AD3d 2160, 2161 [4th Dept 2020], citing *People v Sanchez*, 32 NY3d 1021, 1022-1023 [2018]). The proper standard for conducting weight of the evidence review is set forth in *People v Delamota* (18 NY3d 107, 116-117 [2011]) and *Danielson* (9 NY3d at 349).

Entered: February 5, 2021

Mark W. Bennett
Clerk of the Court