

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

662

**KA 21-01461**

PRESENT: CURRAN, J.P., BANNISTER, SMITH, DELCONTE, AND KEANE, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ROBERT I. SAWYER, DEFENDANT-APPELLANT.

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STEPHANIE R. DIGIORGIO, UTICA, FOR DEFENDANT-APPELLANT.

KRISTYNA S. MILLS, DISTRICT ATTORNEY, WATERTOWN (MORGAN R. MAYER OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Jefferson County Court (David A. Renzi, J.), rendered August 23, 2021. The judgment convicted defendant upon a jury verdict of burglary in the first degree, attempted robbery in the first degree, conspiracy in the fourth degree, criminal possession of a weapon in the second degree and menacing 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 upon a jury verdict of burglary in the first degree (Penal Law § 140.30 [4]), attempted robbery in the first degree (§§ 110.00, 160.15 [4]), conspiracy in the fourth degree (§ 105.10 [1]), criminal possession of a weapon in the second degree (§ 265.03 [1] [b]) and menacing in the second degree (§ 120.14 [1]). We affirm.

Defendant's contention that County Court erred in allowing a witness to testify that defendant had allegedly committed uncharged crimes outside the scope of the *Molineux* ruling and that he had been incarcerated with the victim is not preserved for our review inasmuch as defendant did not object at the time of that testimony (*see People v Green*, 196 AD3d 1148, 1151 [4th Dept 2021], *lv denied* 37 NY3d 1096 [2021], *reconsideration denied* 37 NY3d 1161 [2022]).

Defendant's contention that the evidence is legally insufficient to support his conviction because there was insufficient corroboration of the accomplice testimony is not preserved for our review inasmuch as defendant's motion for a trial order of dismissal was not "specifically directed at the ground[ ] advanced on appeal" (*People v Moore*, 232 AD3d 1299, 1300 [4th Dept 2024], *lv denied* 43 NY3d 945 [2025]; *see People v Gray*, 86 NY2d 10, 19 [1995]). Defendant's contention that the People failed to present legally sufficient

evidence of defendant's liability for criminal possession of a weapon because there was no evidence that he possessed the gun is similarly unpreserved for our review (see *Gray*, 86 NY2d at 19). 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" (*Moore*, 232 AD3d at 1300 [internal quotation marks omitted]). 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 *People v Bleakley*, 69 NY2d 490, 495 [1987]).

Finally, defendant's sentence is not unduly harsh or severe.