



PEOPLE v. TOMMY BROWN

619 N.Y.S.2d 625 (1994) | Cited 0 times | New York Supreme Court | November 14, 1994

DECISION & ORDER

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Rivera, J.), rendered April 15, 1992, convicting him of criminal possession of a controlled substance in the fifth degree, upon a jury verdict, and imposing sentence.

Ordered that the judgment is affirmed.

Viewing the evidence adduced at the trial in the light most favorable to the People (see, *People v Contes*, 60 N.Y.2d 620, 467 N.Y.S.2d 349, 454 N.E.2d 932), we find that it was legally sufficient to establish the defendant's guilt beyond a reasonable doubt (see, *People v Morales*, 162 A.D.2d 128, 556 N.Y.S.2d 74; cf., *People v Gordon*, 76 N.Y.2d 595, 561 N.Y.S.2d 903, 563 N.E.2d 274). Moreover, upon the exercise of our factual review power, we are satisfied that the verdict was not against the weight of the evidence (see, CPL 470.15 [5]; see also, *People v Ortiz*, 170 A.D.2d 396, 566 N.Y.S.2d 284).

Further, the defendant's contention that the proof of his guilt was entirely circumstantial and, therefore, the trial court committed reversible error in failing to give a circumstantial evidence charge, is unpreserved for appellate review since the defendant did not request a circumstantial evidence charge or object to the charge as given (see, CPL 470.05 [2]; see also, *People v Burgos*, 170 A.D.2d 689, 567 N.Y.S.2d 103) and we decline to reach the issue in the exercise of our interest of justice jurisdiction.

ROSENBLATT, J.P., RITTER, COPERTINO and FLORIO, JJ., concur.

