



PEOPLE STATE NEW YORK v. JOHN BONILLA

606 N.Y.S.2d 201 (1994) | Cited 0 times | New York Supreme Court | January 6, 1994

Judgment, Supreme Court, Bronx County, (David Stadtmauer, J.), rendered February 18, 1992, convicting defendant, after a non-jury trial, of two counts of attempted sexual abuse in the first degree (Penal Law 110/130.65[1]), and two counts of attempted sexual abuse in the first degree (Penal Law 110/130.65[3]), and sentencing him, as a second felony offender, to four concurrent terms of 2 to 4 years, unanimously affirmed.

The child victim's statement to her sister one day after the incident was properly admitted as a "prompt outcry", under the circumstances, including the child's age and fear of defendant, who resided in her home (see, *People v. McDaniel*, 81 N.Y.2d 10, 17, 595 N.Y.S.2d 364, 611 N.E.2d 265). While the child's later statement to her mother should not have been admitted as a prompt outcry, there is no significant probability that this evidence, nor any of the questions to which objections were sustained, influenced the verdict in this non-jury trial (*People v. D'Abate*, 37 N.Y.2d 923, 923-294).

ENTERED: January 6, 1994

