



PEOPLE STATE NEW YORK v. FRANCISCO CASTRO

383 N.E.2d 1154 (1978) | Cited 0 times | New York Court of Appeals | October 31, 1978

OPINION OF THE COURT

Memorandum.

Order of the Appellate Division affirmed. Because of the structural simplicity of the case, it was tried by counsel for both sides without the usual elaboration. Nevertheless, the only real issue was one of identity, and that turns on credibility of the witnesses -- the victim, the defendant, and, on the posttrial hearing, the owner of the driving school where, according to the victim, defendant had been employed. The record on the main trial fully supports the Trial Judge's findings. Moreover, the testimony upon the posttrial hearing, held at defendant's request, failed to undermine the victim's testimony concerning defendant's employment. Being legally sufficient and having been affirmed, the findings are beyond review in this court.

Despite defense trial counsel's protestations of his blunders, their effect, if blunders they were, was nullified by the posttrial hearing and the opportunity to produce any additional witnesses. Overall, there was no inadequacy of counsel to merit overturning the determination made (cf *People v Droz*, 39 N.Y.2d 457, 462-463).

Disposition

Order affirmed in a memorandum.

