

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

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KA 11-00200

PRESENT: SCUDDER, P.J., SMITH, SCONIERS, GORSKI, AND MARTOCHE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

REMOND BOWYER, DEFENDANT-APPELLANT.

DAVID J. FARRUGIA, PUBLIC DEFENDER, LOCKPORT (MARY-JEAN BOWMAN OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL J. VIOLANTE, DISTRICT ATTORNEY, LOCKPORT (THOMAS H. BRANDT OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Niagara County Court (Sara S. Sperrazza, J.), rendered September 15, 2010. The judgment convicted defendant, upon a jury verdict, of arson 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 arson in the second degree (Penal Law § 150.15). Viewing the evidence in light of the elements of the crime as charged to the jury (*see People v Danielson*, 9 NY3d 342, 349), we reject defendant's contention that the verdict is against the weight of the evidence (*see generally People v Bleakley*, 69 NY2d 490, 495). Although a different result would not have been unreasonable, it cannot be said that the jury failed to give the testimony, including the conflicting inferences that may be drawn therefrom, the weight it should be accorded (*see generally id.*). The People presented evidence establishing that the fire was neither accidental nor the result of natural causes, and they presented evidence that defendant had both an opportunity and a motive to set the fire (*see People v Gardner*, 26 AD3d 741, 741-742, *lv denied* 6 NY3d 848). Finally, the sentence is not unduly harsh or severe.

Entered: January 31, 2012

Frances E. Cafarell
Clerk of the Court