

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

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**KA 17-00735**

PRESENT: WHALEN, P.J., BANNISTER, GREENWOOD, AND KEANE, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

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MEMORANDUM AND ORDER

SHARDEA BRADLEY, ALSO KNOWN AS ALBERTO HENRIQUEZ,  
DEFENDANT-APPELLANT.

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DAVID M. GIGLIO, UTICA, FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (MERIDETH H. SMITH OF  
COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Monroe County (Thomas E. Moran, J.), rendered January 23, 2017. The judgment convicted defendant upon a jury verdict of assault in the first degree.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: On appeal from a judgment convicting her upon a jury verdict of assault in the first degree (Penal Law § 120.10 [1]), defendant contends that she was denied effective assistance of counsel based on defense counsel's failure to request a justification charge. We reject that contention. At the trial, defense counsel pursued a theory that defendant was innocent of the charged crime inasmuch as it was her codefendant who stabbed the victim. Under these circumstances, we conclude that "defense counsel's decision to advance the [innocence] defense 'was consistent with strategic decisions of a reasonably competent attorney' " (*People v Ortiz*, 167 AD3d 1562, 1563 [4th Dept 2018], *lv denied* 33 NY3d 979 [2019], quoting *People v Benevento*, 91 NY2d 708, 712 [1998]) inasmuch as the justification defense "would have been weak, at best, and . . . might have undermined a stronger defense" (*People v Richardson*, 174 AD3d 1535, 1536 [4th Dept 2019], *lv denied* 34 NY3d 983 [2019] [internal quotation marks omitted]).

Entered: March 15, 2024

Ann Dillon Flynn  
Clerk of the Court