

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, THIRD DEPARTMENT

People v Jones

2023 NY Slip Op 02032 (App. Div. 2023) · No. 110589 · Decided April 20, 2023

SUMMARY

The Appellate Division, Third Department affirmed Brandon Jones's convictions for two counts of second-degree burglary and six counts of second-degree robbery. The court held that accomplice testimony was sufficiently corroborated, the verdict was not against the weight of the evidence, and the defendant's other challenges—including indictment signing, juror challenges, prosecutorial remarks, jury instructions, ineffective assistance, and sentencing—were either unpreserved, meritless, or both.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Ceresia, J.; Egan Jr., J.P.; Clark, J.; Pritzker, J.; Fisher, J.
JURISDICTION	New York
DECIDED	April 20, 2023
DOCKET	110589
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Supreme Court, Albany County, rendered after a jury trial and convicting him of two counts of burglary in the second degree and six counts of robbery in the second degree.
STANDARD OF REVIEW	Legal sufficiency is reviewed by viewing the evidence in the light most favorable to the People and determining whether any valid line of reasoning and permissible inferences could lead a rational jury to find every element proved beyond a reasonable doubt. Weight of the evidence is reviewed independently in a neutral light, with deference to the jury's credibility determinations. Unpreserved claims are generally not reviewable absent an interest-of-justice determination. A sentence is reviewed for whether it is harsh or excessive.
PRECEDENTIAL VALUE	published

PARTIES

Brandon Jones, also known as B and Bu v. The People of the State of New York

TOPICS

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QUESTIONS PRESENTED

1. Whether the evidence was legally sufficient to support defendant's convictions where the identification evidence included accomplice testimony.
2. Whether the verdict was against the weight of the evidence.
3. Whether the indictment was invalid because it was signed by an assistant district attorney rather than the elected district attorney.
4. Whether Supreme Court improperly denied defendant's challenges for cause to prospective jurors.
5. Whether prosecutorial comments during summation and a PowerPoint presentation deprived defendant of a fair trial.
6. Whether counsel was ineffective for failing to object to the prosecutor's comments.
7. Whether the jury instruction concerning corroboration of accomplice testimony was erroneous.
8. Whether defendant's sentence was harsh or excessive.

HOLDINGS

1. The evidence was legally sufficient to support defendant's convictions because the accomplice testimony was supported by independent evidence tending to connect defendant with the commission of the crimes.
2. The verdict was not against the weight of the evidence.
3. The challenge to the assistant district attorney's signature on the indictment was unpreserved, and in any event the signature satisfied the statutory requirements.
4. Supreme Court properly denied defendant's challenges for cause.
5. Defendant's claim concerning the prosecutor's summation and PowerPoint presentation was unpreserved; considered alternatively, the challenged comments did not cause substantial prejudice or deny due process.
6. Defendant received meaningful representation and was not deprived of effective assistance of counsel.
7. The challenge to the accomplice-corroboration instruction was unpreserved, and the instruction nevertheless adequately conveyed the governing legal principles.
8. Defendant's sentence was not harsh or excessive.

KEY QUOTATIONS

“It is enough if it tends to connect the defendant with the commission of the crime in such a way as may reasonably satisfy the jury that the accomplice is telling the truth” (5)

“Seemingly insignificant matters may harmonize with the accomplice's narrative so as to provide the necessary corroboration” (5)

FACTUAL BACKGROUND

In the early morning of July 11, 2016, two masked men entered an Albany residence where five people were sleeping and robbed the occupants of cash, cell phones, and other property while displaying apparent firearms. Two accomplices testified that defendant participated in the robbery, and their accounts were corroborated by victim testimony concerning the intruders' relative heights, hairstyles, clothing, and masks, as well as by stolen property, cash, clothing, and related items found at a residence and in defendant's vehicle. Defendant admitted being at the residence before and after the crime and acknowledged that the vehicle searched by police was his, but denied participating in the robbery.

PROCEDURAL HISTORY

Defendant and codefendant Darnell Brabham proceeded jointly to a jury trial following indictment. Brabham was acquitted, while defendant was convicted on all eight counts and sentenced as a second violent felony offender to eight concurrent ten-year prison terms followed by five years of postrelease supervision. The Appellate Division affirmed the judgment.

DISPOSITION

affirmed

CASES CITED

- People v Galusha, 211 AD3d 1421, 1422 (3d Dept 2022)
- People v Smith, 206 AD3d 1058, 1062 (3d Dept 2022)
- People v Harris, 206 AD3d 1454, 1455-1456 (3d Dept 2022)
- People v Shabazz, 211 AD3d 1093, 1094-1095 (3d Dept 2022)
- People v Davis, 200 AD3d 1200, 1201 (3d Dept 2021)
- People v Ashe, 208 AD3d 1500, 1502, 1505 (3d Dept 2022)
- People v Reome, 15 NY3d 188, 191-194 (2010)
- People v Breland, 83 NY2d 286, 292-294 (1994)
- People v Rodriguez, 52 AD3d 1047, 1048 (3d Dept 2008)
- People v Garcia, 170 AD3d 462, 463 (1st Dept 2019)
- People v Myrick, 135 AD3d 1069, 1070 (3d Dept 2016)
- People v Smith, 63 AD3d 1301, 1302-1303 (3d Dept 2009)
- People v Adams, 222 AD2d 1093, 1093-1094 (4th Dept 1995)

- People v Hanzlik, 95 AD3d 601, 602 (1st Dept 2012)
- People v Lanier, 130 AD3d 1310, 1311 (3d Dept 2015)
- People v Denis, 276 AD2d 237, 245 (3d Dept 2000)
- People v Gage, 259 AD2d 837, 839-840 (3d Dept 1999)
- People v Lind, 20 AD3d 765, 767 (3d Dept 2005)
- People v Green, 194 AD3d 1106 (3d Dept 2021)
- People v Lawrence, 141 AD3d 828, 832 (3d Dept 2016)
- People v Hardie, 211 AD3d 1418, 1419 (3d Dept 2022)
- People v Broomfield, 128 AD3d 1271, 1272 (3d Dept 2015)
- People v Burch, 97 AD3d 987, 988 (3d Dept 2012)
- People v Morris, 161 AD3d 1219, 1220 (3d Dept 2018)
- People v Paige, 211 AD3d 1333, 1337 (3d Dept 2022)
- People v Morton, 198 AD3d 1176, 1180 (3d Dept 2021)
- People v Gertz, 204 AD3d 1166, 1171 (3d Dept 2022)
- People v Leonard, 177 AD3d 1158, 1163 (3d Dept 2019)
- People v Mosley, 155 AD3d 1124, 1129 (3d Dept 2017)
- People v Hilton, 166 AD3d 1316, 1320-1321 (3d Dept 2018)
- People v Colter, 206 AD3d 1371, 1372 (3d Dept 2022)
- People v Abussalam, 196 AD3d 1000, 1009 (3d Dept 2021)
- People v Khalil, 206 AD3d 1300, 1305 (3d Dept 2022)