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publication in the New York Reports.

No. 169
The People &c.,
Respondent,
v.
Reyes Rodriguez,
Appellant.

Arnold J. Levine, for appellant.
Christopher P. Marinelli, for respondent.

MEMORANDUM:

The order of the Appellate Division should be reversed,
and the indictment dismissed.

Defendant was convicted on one count of robbery in the
first degree and two counts of conspiracy. The principal
witnesses against him were accomplices, and their testimony

required corroboration under CPL 60.22. The People introduced corroborative evidence that would have been sufficient under People v Reome (15 NY3d 188 [2010]). However, at the trial of the case (which took place before the Reome decision), the jury was instructed, without objection from the People, that "the corroborative evidence must be truly independent of and may not draw its weight and probative value from the accomplice's testimony." The People thus accepted the more demanding test for corroborative evidence set forth in People v Hudson (51 NY2d 233 [1980]) (see People v Malagon, 50 NY2d 954, 956 [1980]; People v Bell, 48 NY2d 913, 915 [1979]). Reome overruled Hudson, but that does not help the People here.

Under the Hudson standard, the corroborating evidence was insufficient. The evidence that was "independent" of the accomplice testimony in the Hudson sense proved, at most, that defendant had driven a minivan that was the same color as a car that was used to commit some of the crimes charged. This by itself did not tend "to connect the defendant with the commission" of the crimes (CPL 60.22 [1]).

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Order reversed and indictment dismissed, in a memorandum. Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Rivera concur. Judge Abdus-Salaam took no part.

Decided October 17, 2013