

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

1096

KA 06-03040

PRESENT: SCUDDER, P.J., HURLBUTT, MARTOCHE, SMITH, AND CENTRA, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

EBONY SIPLIN, DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (WILLIAM CLAUSS OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (NANCY A. GILLIGAN OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Monroe County Court (Alex R. Renzi, J.), rendered June 28, 2006. The judgment convicted defendant, upon a jury verdict, of aggravated cruelty to animals.

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

Memorandum: Defendant appeals from a judgment convicting her, upon a jury verdict, of aggravated cruelty to animals (Agriculture and Markets Law § 353-a [1]). The conviction arises out of defendant's treatment of a three-month-old pit bull. Contrary to defendant's contention, County Court properly allowed an investigator from the Humane Society to testify with respect to defendant's improper care of another dog several months prior to the incident in question inasmuch as evidence of the prior incident was relevant to establish intent and the absence of mistake or accident (*see People v Brown*, 57 AD3d 1461, 1463, *lv denied* 12 NY3d 814; *see generally People v Allweiss*, 48 NY2d 40, 46-47; *People v Molineux*, 168 NY 264, 293-294).

Entered: October 2, 2009

Patricia L. Morgan
Clerk of the Court