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

1300

KA 07-02177

PRESENT: HURLBUTT, J.P., CENTRA, FAHEY, PERADOTTO, AND GORSKI, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V MEMORANDUM AND ORDER

ROGER ODUM, DEFENDANT-APPELLANT.

FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (ROBERT P. RICKERT OF COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (BRENTON P. DADEY OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Onondaga County Court (Anthony F. Aloi, J.), rendered September 25, 2007. The judgment convicted defendant, upon a jury verdict, of attempted robbery in the first degree.

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

Memorandum: On appeal from a judgment convicting him upon a jury verdict of attempted robbery in the first degree (Penal Law §§ 110.00, 160.15 [3]), defendant contends that County Court erred in denying his challenge for cause with respect to a prospective juror. We reject that contention. It is well settled that "a prospective juror whose statements raise a serious doubt regarding the ability to be impartial must be excused unless the [prospective] juror states unequivocally on the record that he or she can be fair and impartial" (*People v Chambers*, 97 NY2d 417, 419; *see People v Nicholas*, 98 NY2d 749, 751-752). Here, the prospective juror never expressed any doubt concerning his ability to be fair and impartial (*see People v Semper*, 276 AD2d 263, *lv denied* 96 NY2d 738). We conclude that, viewing the statements of the prospective juror as a whole, the statements were unequivocal despite the use of the words "think" and "try" (*see People v Shulman*, 6 NY3d 1, 28, *cert denied* 547 US 1043; *Chambers*, 97 NY2d at 419; *People v Jones*, 21 AD3d 860, *lv denied* 6 NY3d 755; *Semper*, 276 AD2d 263).

Defendant failed to preserve for our review his further contention that the interpreter assigned to assist him was inadequate because he lacked experience and was uncertified (*see People v Santiago*, 265 AD2d 827, *lv denied* 94 NY2d 866; *People v Hatzipavlou*, 175 AD2d 969, *lv denied* 79 NY2d 827). In any event, that contention is without merit. Although the interpreter did not have any prior

experience interpreting during a trial, the record establishes that he nevertheless was qualified to do so (*see generally Hatzipavlou*, 175 AD2d 969). The fact that the interpreter was not a certified interpreter does not invalidate his assistance to defendant (*see People v Costa*, 186 AD2d 299, *lv denied* 81 NY2d 761; *see generally* Judiciary Law § 387). Finally, we reject the contention of defendant that he was denied effective assistance of counsel (*see generally People v Baldi*, 54 NY2d 137, 147).

Entered: November 20, 2009

Patricia L. Morgan
Clerk of the Court