

State of New York Court of Appeals

MEMORANDUM

This memorandum is uncorrected and subject to revision before publication in the New York Reports.

No. 43 SSM 2
The People &c.,
Respondent,
v.
Luis Vasquez,
Appellant.

Submitted by Stephen R. Strothers, for appellant.
Submitted by Jennifer L. Watson, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed.

The record supports the lower courts' determination that defendant was not entitled to a third CPL article 730 examination to redetermine his competency to proceed (*see People v Armlin*, 37 NY2d 167, 171 [1975]; *People v Morgan*, 87 NY2d 878, 880 [1995]).

We agree with the Appellate Division's determination that the prosecutor's questioning of a defense witness and summation remarks improperly associated defendant with uncharged crimes but were harmless. The proof of defendant's guilt was overwhelming, and the trial evidence demonstrated that there is no "significant probability, rather than only a rational possibility," that the jury would have acquitted defendant but for the prosecutor's references to the uncharged crimes (*People v Crimmins*, 36 NY2d 230, 242 [1975]).

The Appellate Division did not err in holding that Supreme Court acted within its discretion in denying defense counsel's last-minute request for an adjournment to interview a defense witness before the witness testified. Under the circumstances of this case, the denial of the adjournment request did not infringe defendant's rights to a fair trial, to prepare a defense, or to effective assistance of counsel (*cf. People v Spears*, 64 NY2d 698, 700 [1984]).

Defendant's remaining contentions are without merit.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia and Wilson concur.

Decided March 25, 2021