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

No. 73 SSM 6
The People &c.,
Respondent,
v.
Elmer Castillo,
Appellant.

No. 74 SSM 7
The People &c.,
Respondent,
v.
Brian Degraffenreid,
Appellant.

Case No. 73 SSM 6:

Submitted by Akash M. Toprani, for appellant.
Submitted by Lori Ann Farrington, for respondent.

Case No. 74 SSM 7:

Submitted by Barbara Zolot, for appellant.
Submitted by Lori Ann Farrington, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed
in each case. Co-defendants Elmer Castillo and Brian
Degraffenreid appeal from orders of the Appellate Division
affirming their convictions for manslaughter in the second

degree. Co-defendants' challenge to the trial court's general charge on causation is unpreserved, and there was no mode of proceedings error (see People v Gray, 86 NY2d 10, 19 [1995]; see also People v Thomas, 50 NY2d 467, 472 [1980]; People v Patterson, 39 NY2d 288, 295 [1976]). In addition, defense counsel's failure to object to the charge does not constitute ineffective assistance, as the jury instructions, viewed in totality, neither improperly shifted the burden to co-defendants nor relieved the People of their burden to prove guilt beyond a reasonable doubt (see Thomas, 50 NY2d at 472; see also People v Drake, 7 NY3d 28, 34-35 [2006]). Additionally, co-defendants' remaining ineffective assistance of counsel claims are without merit as both co-defendants received meaningful representation (see People v Baldi, 54 NY2d 137, 147 [1981]; see also People v Benevento, 91 NY2d 708, 714 [1998]; People v Mahboubian, 74 NY2d 174, 183-184 [1989]; People v Stultz, 2 NY3d 277, 287 [2004]).

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

Decided March 23, 2017