

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Zraidi, 2012 ONCA 848

DATE: 20121130

DOCKET: C54021

Goudge, Rouleau JJ.A. and Ray J. (*ad hoc*)

BETWEEN

Her Majesty the Queen

Respondent

and

Mohamed Zraidi

Appellant

R. Craig Bottomley, for the appellant

Scott Latimer, for the respondent

Heard: November 26, 2012

On appeal from the conviction entered on April 19, 2010 and the sentence imposed on July 20, 2011 by Justice Ramez Khawly of the Ontario Court of Justice, sitting without a jury.

APPEAL BOOK ENDORSEMENT

[1] The appellant argues that for two reasons the photo lineup identification should have been given no weight.

[2] We do not agree. The fact that several months before the lineup the complainant was shown a grainy video of the scene on the night of the incident

did not necessitate the conclusion sought by the appellant. Nor did the fact that the photo lineup had only six photos that the trial judge felt were fairly similar to the appellant. The trial judge was alive to both these considerations in determining the weight to be given to the photo lineup identification. He also carefully recited the other factors he viewed as of some relevance on the identification question and concluded that the case was made out beyond a reasonable doubt.

[3] In our view there was nothing unreasonable in the weighing exercise the trial judge undertook. There is no basis therefore for us to interfere with it. The appeal is dismissed. The sentence appeal was not pursued.