

2018 WL 522855
Supreme Court,
Appellate Division, Second
Department, New York.

The **PEOPLE**, etc., respondent,
v.
Sukhjinder DHILLON, appellant.

2017-03567

|
(S.C.I. No. 1235/13)

|
Argued—December 19, 2017

|
January 24, 2018

Attorneys and Law Firms

Mark M. Baker, New York, NY, for
appellant.

Richard A. Brown, District Attorney,
Kew Gardens, N.Y. (John M. Castellano,
Johnnette Traill, Ellen C. Abbot, and Merri
Turk Lasky of counsel), for respondent.

L. PRISCILLA HALL, J.P., LEONARD
B. AUSTIN, SANDRA L. SGROI, LINDA
CHRISTOPHER, JJ.

DECISION & ORDER

*1 Appeal by the defendant from a
resentence of the Supreme Court, Queens
County (Stephanie Zaro, J.), imposed March
6, 2017, upon his conviction of manslaughter
in the first degree, upon his plea of
guilty, after remittitur from this Court

for resentencing (*see People v. Dhillon*,
143 A.D.3d 734, 39 N.Y.S.3d 181), the
resentence being a determinate term of
imprisonment of 17 years to be followed by
5 years' postrelease supervision.

ORDERED that the resentence is modified,
as a matter of discretion in the interest of
justice, by reducing the determinate term of
imprisonment from 17 years to 12 years; as
so modified, the resentence is affirmed.

“The determination of whether to grant
or deny youthful offender status rests
within the sound discretion of the court
and depends upon all the attending facts
and circumstances of the case” (*People*
v. Hesterbey, 121 A.D.3d 1127, 1128,
994 N.Y.S.2d 421 [internal quotation
marks omitted]; *see People v. Mullings*,
83 A.D.3d 871, 872, 921 N.Y.S.2d 152;
People v. Fearon, 182 A.D.2d 698, 699,
582 N.Y.S.2d 653, *lv granted* 79 N.Y.2d
1048, 584 N.Y.S.2d 1016, 596 N.E.2d
414). Here, weighing all the relevant
circumstances, including the gravity of
the crime and the manner in which
it was committed, the fact that the
defendant has no prior criminal record,
the defendant's psychological diagnoses, and
his prospects for rehabilitation and hope
for a future constructive life, the Supreme
Court providently exercised its discretion
in denying the defendant's application for
youthful offender status (*see People v.*
Hopkins, 163 A.D.2d 416, 558 N.Y.S.2d 137,
572; *People v. Lutchmidat*, 134 A.D.2d 286,
287, 520 N.Y.S.2d 612).

However, the resentence imposed was excessive to the extent indicated herein (*see People v. Suitte*, 90 A.D.2d 80, 455 N.Y.S.2d 675).

HALL, J.P., AUSTIN, SGROI and CHRISTOPHER, JJ., concur.

All Citations

--- N.Y.S.3d ----, 2018 WL 522855 (Mem),
2018 N.Y. Slip Op. 00434

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