

2018 WL 2424935 (Mem)

Supreme Court,  
Appellate Division, Second Department, New York.

The PEOPLE, etc., respondent,

v.

John ISRAEL, appellant.

2015-09009

|  
Ind. No. 2175/12

|  
Decided May 30, 2018

#### Attorneys and Law Firms

[Paul Skip Laisure](#), New York, N.Y. (Michael Arthus of counsel), for appellant.

[Eric Gonzalez](#), District Attorney, Brooklyn, N.Y. ([Leonard Joblove](#) and [Ruth E. Ross](#) of counsel), for respondent.

[SHERI S. ROMAN](#), J.P., [SANDRA L. SGROI](#), [FRANCESCA E. CONNOLLY](#), [LINDA CHRISTOPHER](#), JJ.

#### DECISION & ORDER

\*1 Appeal by the defendant from a judgment of the Supreme Court, Kings County (John G. Ingram, J.), rendered August 28, 2015, convicting him of predatory sexual assault against a child, course of sexual conduct against a child in the second degree, and endangering the welfare of a child, upon a jury verdict, and imposing sentence. The appeal brings up for review the denial ([Raymond Guzman](#), J.), without a hearing, of the defendant's motion to **suppress** the complainant's testimony.

ORDERED that the judgment is affirmed.

In the absence of any nonspeculative evidence that the child complainant's testimony resulted from undue

suggestion by persons who interviewed him, the defendant's motion to **suppress** the complainant's testimony was properly denied without a hearing (*see People v. Montalvo*, 34 A.D.3d 600, 601, 825 N.Y.S.2d 101; *see also People v. Milford*, 118 A.D.3d 1166, 1168–1169, 987 N.Y.S.2d 696; *People v. Nickel*, 14 A.D.3d 869, 870–871, 788 N.Y.S.2d 274).

Contrary to the defendant's contention, testimony of the complainant's aunt, to whom the complainant first reported the defendant's conduct, was nonspecific and properly admitted for the relevant, nonhearsay purpose of explaining the investigative process and completing the narrative of events leading to the defendant's arrest (*see People v. Ludwig*, 24 N.Y.3d 221, 231–232, 997 N.Y.S.2d 351, 21 N.E.3d 1012; *People v. Rosario*, 100 A.D.3d 660, 661, 953 N.Y.S.2d 299).

The defendant failed to preserve for appellate review his contentions that the count of predatory sexual assault against a child was duplicitous (*see People v. Allen*, 24 N.Y.3d 441, 449–450, 999 N.Y.S.2d 350, 24 N.E.3d 586), that the prosecutor committed misconduct on summation (*see CPL 470.05[2]*; *People v. Osorio*, 49 A.D.3d 562, 563–564, 855 N.Y.S.2d 163), and that the sentencing court penalized him for exercising his right to a trial (*see People v. Hurley*, 75 N.Y.2d 887, 888, 554 N.Y.S.2d 469, 553 N.E.2d 1017; *People v. Gomez*, 135 A.D.3d 954, 956–957, 23 N.Y.S.3d 383). We decline to reach these issues in the exercise of our interest of justice jurisdiction.

The sentence imposed on the conviction of predatory sexual assault against a child was not excessive (*see People v. Suito*, 90 A.D.2d 80, 455 N.Y.S.2d 675).

The defendant's remaining contentions are without merit.

[ROMAN](#), J.P., [SGROI](#), [CONNOLLY](#) and [CHRISTOPHER](#), JJ., concur.

#### All Citations

2018 WL 2424935 (Mem), 2018 N.Y. Slip Op. 03856