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This memorandum is uncorrected and subject to revision before  
publication in the New York Reports.  
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No. 89 SSM 55  
The People &c.,  
Respondent,  
v.  
Susan McDade,  
Appellant.

Submitted by Andrew R. Safranko, for appellant.  
Submitted by Ian H. Silverman, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed.  
Legally sufficient evidence supports defendant Susan McDade's  
conviction of second-degree rape. Forensic DNA testing of a

penile swab from the victim, a severely mentally disabled 17-year-old boy, revealed the existence of significant amounts of defendant's DNA, which established that defendant had extended, non-casual contact with the victim's penis. Eyewitness evidence established that both the victim and defendant were naked. Moreover, the People elicited additional evidence that the victim, who had the cognitive abilities of a toddler, did not understand sex and was not known to masturbate or ejaculate. This evidence provided a valid line of reasoning and permissible inferences that could lead a rational jury to conclude that the contact between defendant and L. R. was sexual intercourse, rather than oral sex or hand-to-penis contact, neither of which would require defendant to be completely naked and which would have resulted in sexual gratification to an individual who could not have understood. The fact that other inferences could have been drawn by the jury does not render the evidence legally insufficient.

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided February 23, 2010