

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D12643
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_____AD3d_____

Argued - September 29, 2006

FRED T. SANTUCCI, J.P.
WILLIAM F. MASTRO
STEVEN W. FISHER
MARK C. DILLON, JJ.

2004-06279

DECISION & ORDER

The People, etc., respondent,
v Kareem Lee, appellant.

(Ind. No. 5957/03)

Lynn W. L. Fahey, New York, N.Y. (Barbara Lerner and Barry Stendig of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Thomas M. Ross of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Marrus, J.), rendered July 15, 2004, convicting him of robbery in the first degree (three counts), and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant has failed to preserve for appellate review his claims that the prosecutor's summation remarks improperly vouched for the People's witnesses, misrepresented the defense position, and denigrated the defendant (*see* CPL 470.05[2]; *People v Tonge*, 93 NY2d 838; *People v Dien*, 77 NY2d 885; *People v Pierre*, 30 AD3d 622; *People v Trinidad*, 22 AD3d 612; *People v Armstrong*, 122 AD2d 218). In any event, while portions of the prosecutor's summation were lamentable and went well beyond the bounds of proper advocacy and fair comment (*see People v Robinson*, 260 AD2d 508), they constituted harmless error in light of the overwhelming evidence of the defendant's guilt (*see People v Crimmins*, 36 NY2d 230, 237; *People v Trinidad, supra*; *People v Dardain*, 226 AD2d 551; *People v D'Alessandro*, 184 AD2d 114; *People v Roccaforte*, 141 AD2d 775).

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The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

The defendant's contention in point one of his brief, relating to the issue of whether his written statement to the police should have been redacted, does not require a new trial.

The defendant's remaining contention is without merit.

SANTUCCI, J.P., MASTRO, FISHER and DILLON, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court