

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

D12720
O/nl

_____AD3d_____

Submitted - October 12, 2006

ANITA R. FLORIO, J.P.
GABRIEL M. KRAUSMAN
WILLIAM F. MASTRO
JOSEPH COVELLO, JJ.

2003-05024

DECISION & ORDER

The People, etc., respondent,
v Yakob Benshimon, appellant.

(Ind. No. 7602/99)

Lynn W. L. Fahey, New York, N.Y. (Joshua M. Levine of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Anne C. Feigus of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (D'Emic, J.), rendered April 30, 2003, convicting him of murder in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, the failure of defense counsel to present a defense of extreme emotional disturbance did not constitute ineffective assistance of counsel (*see People v Caban*, 5 NY3d 143, 152; *People v Soto*, 276 AD2d 810; *People v Feris*, 144 AD2d 691; *People v Knights*, 109 AD2d 910).

FLORIO, J.P., KRAUSMAN, MASTRO and COVELLO, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

November 28, 2006

PEOPLE v BENSIMON, YAKOB