

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

D12969  
T/mv

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - October 27, 2006

ROBERT W. SCHMIDT, J.P.  
WILLIAM F. MASTRO  
STEVEN W. FISHER  
MARK C. DILLON, JJ.

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2002-04664

DECISION & ORDER

The People, etc., respondent,  
v Jean Faustin, appellant.

(Ind. No. 2581/00)

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Lynn W. L. Fahey, New York, N.Y. (De Nice Powell of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Johnnette Traill, and Jill Gross-Marks of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Blumenfeld, J.), rendered April 29, 2002, convicting him of assault in the first degree and criminal possession of a weapon in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant claims that he was deprived of a fair trial by prosecutorial misconduct during trial and on summation. However, except for his claims that the prosecutor on summation misstated the defense counsel's closing argument and attacked the defense counsel's integrity, his contentions are unpreserved for appellate review (*see* CPL 470.05[2]; *People v Medina*, 53 NY2d 951, 953). In any event, his claims are without merit and any error was harmless in light of the overwhelming evidence of his guilt (*see People v Crimmins*, 36 NY2d 230, 242).

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

ENTER:

  
James Edward Pelzer  
Clerk of the Court

December 5, 2006

PEOPLE v FAUSTIN, JEAN