

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

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_____AD3d_____

Submitted - December 18, 2006

ROBERT A. SPOLZINO, J.P.
ANITA R. FLORIO
ROBERT A. LIFSON
JOSEPH COVELLO, JJ.

2004-04138

DECISION & ORDER

The People, etc., respondent,
v Lenwood Evans, appellant.

(Ind. No. 1282/01)

Lynn W. L. Fahey, New York, N.Y. (Barry Stendig 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 (Buchter, J.), rendered April 14, 2004, convicting him of murder in the second degree and criminal possession of a weapon in the second degree, upon a jury verdict, and imposing sentence. The appeal brings up for review the denial, after a hearing (Demakos, J.H.O.), of that branch of the defendant's omnibus motion which was to suppress his statements to a law enforcement official.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contentions, the hearing court properly found that the statements he made to the police while he was in a holding cell were voluntary and spontaneous, and accordingly, admissible at trial (*see People v Rivers*, 56 NY2d 476, 479; *People v Farrell*, 13 AD3d 644, 645; *People v Davis*, 261 AD2d 411, 412).

SPOLZINO, J.P., FLORIO, LIFSON and COVELLO, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

January 23, 2007

PEOPLE v EVANS, LENWOOD