

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

D14642  
C/gts

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Submitted - March 6, 2007

HOWARD MILLER, J.P.  
WILLIAM F. MASTRO  
DAVID S. RITTER  
RUTH C. BALKIN, JJ.

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2003-06141

DECISION & ORDER

The People, etc., respondent,  
v Tirek Garrett, appellant.

(Ind. No. 7298/02)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Solomon Neubort, and Tziyonah M. Langsam of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Gerges, J.), rendered November 13, 2003, convicting him of murder in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that his conviction of murder in the second degree (*see* Penal Law § 125.25[1]) was not supported by legally sufficient evidence is unpreserved for appellate review (*see People v Gray*, 86 NY2d 10, 19-21). In any event, viewing the evidence in the light most favorable to the prosecution, we find that it was legally sufficient to establish the defendant's guilt, including the element of intent, beyond a reasonable doubt (*see People v Calabria*, 3 NY3d 80, 81-82). Moreover, upon the exercise of our factual review power (*see* CPL 470.15[5]), we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

MILLER, J.P., MASTRO, RITTER and BALKIN, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court

April 10, 2007

PEOPLE v GARRETT, TIREK