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

D15156
C/gts

_____AD3d_____ Submitted - April 9, 2007

STEPHEN G. CRANE, J.P.
GABRIEL M. KRAUSMAN
ROBERT A. LIFSON
RUTH C. BALKIN, JJ.

2003-02819 DECISION & ORDER

The People, etc., respondent,
v Nashir Ahmed, appellant.

(Ind. No. 641/01)

Steven Banks, New York, N.Y. (Jeffrey I. Richman of counsel), for appellants.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Nicoletta J. Caferri, and Roni C. Piplani of counsel), for respondents.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Cooperman, J.), rendered March 25, 2003, convicting him of gang assault in the first degree, assault in the first degree, assault in the second degree (two counts), and criminal possession of a weapon in the fourth degree (two counts), upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's challenges to various remarks made by the prosecutor during summation are unpreserved for appellate review. The comments the defendant now challenges either were the subject of only general objections asserted by defense counsel, were not the subject of any request for curative instructions made by defense counsel, or were the subject of curative instructions subsequent to which the defense counsel did not seek further curative instructions or move for a mistrial (*see* CPL 470.05[2]; *People v Scoon*, 303 AD2d 525, 525; *People v Rosario*, 195 AD2d 577). In any event, the majority of the comments were fair response to the defense summation (*see People v Cox*, 161 AD2d 724, 725) and to the extent that any comments may have been improper, any such error was harmless in light of the overwhelming evidence of the defendant's guilt (*see People v Crimmins*, 36 NY2d 230).

Contrary to the defendant's contention, the Supreme Court properly determined that he failed to make a prima facie showing that the prosecution exercised its peremptory challenges in a discriminatory manner (*see People v Chowdhury*, 22 AD3d 596).

CRANE, J.P., KRAUSMAN, LIFSON and BALKIN, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court