

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

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_____AD3d_____

Submitted - May 29, 2007

HOWARD MILLER, J.P.
STEPHEN G. CRANE
DAVID S. RITTER
ROBERT A. LIFSON, JJ.

2004-07757

DECISION & ORDER

The People, etc., respondent,
v Kenyatte Williams, appellant.

(Ind. No. 2899-02)

Robert C. Mitchell, Riverhead, N.Y. (John M. Dowden of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Michael J. Miller of counsel),
for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Hinrichs, J.), rendered August 10, 2004, 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 the trial court improperly permitted the prosecutor to bolster a witness's prior in-court identification of the defendant with the testimony of a police officer, on redirect examination, is without merit. Where the opposing party, inter alia, opens the door on cross-examination to matters not touched upon on direct examination, a party has the right on redirect examination to explain, clarify, and fully elicit a question only partially examined on cross-examination. Where only part of a statement has been brought out on cross-examination, the other parts may be introduced on redirect examination for the purpose of explaining or clarifying the statement (*see People v Melendez*, 55 NY2d 445, 451-452). Thus, it was proper for the prosecutor to elicit from the police officer, on redirect examination, the portions of the eyewitness's statement that were not introduced on cross-examination.

August 7, 2007

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Resolution of issues of credibility is primarily a matter to be determined by the jury, which saw and heard the witnesses, and its determination should be accorded great deference on appeal (*see People v Romero*, 7 NY3d 633, 644-645; *People v Mateo*, 2 NY3d 383, 410, *cert denied* 542 US 946). 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, supra*).

The sentence imposed was not excessive (*see People v Feliciano*, 302 AD2d 474; *People v Suitte*, 90 AD2d 80, 83).

The defendant's remaining contentions are unpreserved for appellate review, and in any event, are without merit.

MILLER, J.P., CRANE, RITTER and LIFSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court