

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

D16568
X/kmg

_____AD3d_____

Argued - September 28, 2007

REINALDO E. RIVERA, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON, JJ.

2005-03761

DECISION & ORDER

The People, etc., respondent,
v Timothy Lacewell, appellant.

(Ind. No. 41/04)

Lynn W. L. Fahey, New York, N.Y. (Tonya Plank of counsel), for appellant.

Daniel M. Donovan, Jr., District Attorney, Staten Island, N.Y. (Morrie I. Kleinbart and James Ching of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Richmond County (Rooney, J.), rendered April 13, 2005, convicting him of criminal possession of a controlled substance in the fourth degree, assault in the second degree, assault in the third degree, and resisting arrest, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant contends that the court erred in charging the jury that it might infer a “consciousness of guilt” from a threat that he made at a police station, soon after his arrest. However, any error in giving the charge was harmless, as there was overwhelming evidence of the defendant’s guilt, and no significant probability that the error contributed to his convictions (*see People v Crimmins*, 36 NY2d 230, 241-242; *cf. People v Heman*, 198 AD2d 434, 435).

The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80, 85-86).

RIVERA, J.P., COVELLO, ANGIOLILLO and DICKERSON, JJ., concur.

ENTER:


James Edward Pelzer

October 16, 2007

PEOPLE v LACEWELL, TIMOTHY

Clerk of the Court

October 16, 2007

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