

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

D17453
X/kmg

_____AD3d_____

Argued - November 20, 2007

REINALDO E. RIVERA, J.P.
ROBERT A. SPOLZINO
EDWARD D. CARNI
WILLIAM E. McCARTHY, JJ.

2005-07591

DECISION & ORDER

The People, etc., respondent,
v Alfred Dorsette, appellant.

(Ind. No. 4179/04)

Lynn W. L. Fahey, New York, N.Y. (Denise A. Corsi and Lisa Napoli of counsel),
for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Camille
O'Hara Gillespie, and Jason H. Casell of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County
(Collini, J.), rendered June 28, 2005, convicting him of criminal possession of a weapon in the second
degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

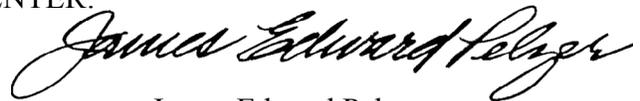
The defendant's contention that various comments made by the prosecutor during
summation were improper and deprived him of a fair trial is unpreserved for appellate review. The
defendant either did not object to the remarks at issue, made only general objections, or his objections
were sustained without any further request for curative instructions, and his motion for a mistrial after
the completion of summations was untimely and failed to preserve his contention (*see* CPL 470.05[2];
People v Romero, 7 NY3d 911; *People v Owens*, 43 AD3d 1185; *People v Patten*, 43 AD3d 964).
In any event, the majority of the challenged remarks did not exceed the bounds of rhetorical comment
permissible in closing argument and constituted either fair comment upon the evidence presented or
fair response to the defense summation (*see People v Owens*, 43 AD3d 1185; *People v Salnave*, 41
AD3d 872, 874). To the extent that the prosecutor improperly referred to the absence of a defense

witness whom he knew was hospitalized, such error was harmless (*see People v Crimmins*, 36 NY2d 230, 237; *People v Richardson*, 294 AD2d 379, 380).

The defendant's remaining contentions are unpreserved for appellate review and we decline to reach them in the exercise of our interest of justice jurisdiction.

RIVERA, J.P., SPOLZINO, CARNI and McCARTHY, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court