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

D17680
C/kmg

_____AD3d_____ Submitted - October 12, 2007

STEPHEN G. CRANE, J.P.
ANITA R. FLORIO
DANIEL D. ANGIOLILLO
EDWARD D. CARNI, JJ.

2005-00599 DECISION & ORDER

The People, etc., respondent,
v Mark Blount, appellant.

(Ind. No. 565/04)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Morgan J. Dennehy, and Maria Park of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Feldman, J.), rendered December 7, 2004, convicting him of robbery in the first degree (four counts), attempted robbery in the first degree, and criminal possession of a weapon in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the People's contention, the defendant's objection to the court's *Sandoval* ruling (*see People v Sandoval*, 34 NY2d 371) was preserved for appellate review (*see* CPL 470.05[2]). However, the *Sandoval* ruling was a provident exercise of the court's discretion (*see People v Andrews*, 30 AD3d 434; *People v Cruz*, 21 AD3d 967; *People v Nanton*, 18 AD3d 671).

The defendant's contention that certain comments made by the prosecutor during summation were improper and deprived him of a fair trial is unpreserved for appellate review, as the defendant did not object to the remarks (*see* CPL 470.05[2]; *People v Romero*, 7 NY3d 911, 912). In any event, the challenged comments either were fair response to the defendant's summation (*see People v Small*, 45AD3d 705; *People v Salnave*, 41 AD3d 872; *People v McHarris*, 297 AD2d 824,

825), or, if improper, did not deprive him of a fair trial (*see People v Crimmins*, 36 NY2d 230).

The defendant accomplished the first degree robberies through separate and distinct acts committed against four different individuals. While the statutory elements overlap, the commission of the robberies through separate and distinct acts permitted the imposition of consecutive sentences, even though those robberies were part of a single extended criminal transaction (*see People v Ramirez*, 89 NY2d 444; *see also People v Laureano*, 87 NY2d 640; *People v Smith*, _____AD3d_____ [2d Dept, Dec. 4, 2007]; *People v Stewartson*, 25 AD3d 629; *People v Summers*, 20 AD3d 546).

CRANE, J.P., FLORIO, ANGIOLILLO and CARNI, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court