

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

D18222  
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Argued - June 20, 2007

ROBERT A. SPOLZINO, J.P.  
STEVEN W. FISHER  
JOSEPH COVELLO  
WILLIAM E. McCARTHY, JJ.

2005-06394

DECISION & ORDER ON MOTION

The People, etc., respondent,  
v Serge A. Casimir, appellant.

(Ind. No. 1619/03)

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Motion by the appellant, in effect, for leave to reargue an appeal from a judgment of the Supreme Court, Queens County, rendered June 29, 2005, which was decided by decision and order of this Court dated September 18, 2007.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is,

ORDERED that the motion is granted, and upon reargument, the decision and order of this court dated September 18, 2007, is recalled and vacated, and the following decision and order is substituted therefor:

Mischel & Horn, P.C., New York, N.Y. (Richard E. Mischel of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Nicoletta J. Caferri, Delayne Austin, and Sharon Y. Brodt of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Aloise, J.), rendered June 29, 2005, convicting him of attempted murder in the second degree,

March 4, 2008

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robbery in the first degree, assault in the first degree, criminal possession of a weapon in the second degree, and criminal possession of a weapon in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, viewing the evidence in the light most favorable to the prosecution, and affording it the benefit of every favorable inference to be drawn therefrom (*see People v Contes*, 60 NY2d 620), we find that the verdict was supported by legally sufficient evidence.

*Moreover, 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, 7 NY3d 633).*

*The defendant's remaining contentions are without merit.*

SPOLZINO, J.P., FISHER, COVELLO and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court