

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

D18637
W/kmg

_____AD3d_____

Argued - February 19, 2008

REINALDO E. RIVERA, J.P.
DAVID S. RITTER
EDWARD D. CARNI
JOHN M. LEVENTHAL, JJ.

2006-02841

DECISION & ORDER

The People, etc., respondent,
v Andrew Lessie, appellant.

(Ind. No. 3226/05)

Lynn W. L. Fahey, New York, N.Y. (Benjamin D. Gold of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Diane R. Eisner of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Holdman, J.), rendered February 24, 2006, convicting him of resisting arrest, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant argues that the Supreme Court erred in admitting testimony from the arresting officer that, prior to trial, he was threatened by two defense witnesses. The defendant contends that the admission of this testimony was improper, as there was insufficient circumstantial evidence connecting him to the alleged threat.

Contrary to the defendant's contention, the Supreme Court did not err in determining that there was sufficient circumstantial evidence linking him to the alleged threat to warrant its admission into evidence (*see People v Myrick*, 31 AD3d 668, 669; *People v Cotto*, 222 AD2d 345; *People v Pitts*, 218 AD2d 715). Moreover, the Supreme Court instructed the jury that it was free

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to believe, or not believe, that the alleged threat had been made and/or that the defendant was linked to the alleged threat (*see People v Myrick*, 31 AD3d at 669).

RIVERA, J.P., RITTER, CARNI and LEVENTHAL, 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