

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

D19447
C/hu

_____AD3d_____

Argued - April 28, 2008

REINALDO E. RIVERA, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
WILLIAM E. McCARTHY, JJ.

2006-05896

DECISION & ORDER

The People, etc., respondent,
v Omar Nieves, appellant.

(Ind. No. 6773/04)

Lynn W. L. Fahey, New York, N.Y. (Steven R. Bernhard of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Camille O'Hara Gillespie, and Terry-Ann Llewellyn of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Chambers, J.), rendered May 11, 2006, convicting him of murder in the second degree and 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 claim that he was denied a fair trial when the court permitted the prosecutor to introduce evidence of the defendant's prior bad act is preserved for appellate review (*see* CPL 470.05[2]). However, any error in admitting the evidence was harmless because the evidence of the defendant's guilt was overwhelming and there is no significant probability that, had it not been for the alleged error, the jury would have acquitted the defendant (*see People v Jackson*, 8 NY3d 869, 871; *People v Crimmins*, 36 NY2d 230).

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

ENTER:



James Edward Pelzer
Clerk of the Court

May 27, 2008

PEOPLE v NIEVES, OMAR