

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

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Submitted - April 21, 2008

WILLIAM F. MASTRO, J.P.  
REINALDO E. RIVERA  
DANIEL D. ANGIOLILLO  
WILLIAM E. McCARTHY, JJ.

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2006-08889

DECISION & ORDER

The People, etc., respondent,  
v Luis Garcia, appellant.

(Ind. No. 7462/05)

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Lynn W. L. Fahey, New York, N.Y. (Denise A. Corsí of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Thomas M. Ross, and Kaye Scholer LLP [Christopher D. Baker], of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Carroll, J.), rendered September 6, 2006, convicting him of assault in the third degree (two counts), upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the prosecutor's summation denied him due process and a fair trial is unpreserved for appellate review, as he either failed to object to remarks he now contests or made only a general objection (*see* CPL 470.05[2]; *People v Romero*, 7 NY3d 911, 912; *People v Small*, 45 AD3d 705). In any event, a review of the challenged comments reveals that they were either responsive to defense counsel's summation or fair comment on the evidence (*see People v McHarris*, 297 AD2d 824, 825; *People v Russo*, 201 AD2d 512, 513).

The defendant's remaining contention is without merit.

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

ENTER:



James Edward Pelzer  
Clerk of the Court

June 17, 2008

PEOPLE v GARCIA, LUIS