

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

D20588
W/prt

_____AD3d_____

Submitted - September 12, 2008

PETER B. SKELOS, J.P.
JOSEPH COVELLO
RUTH C. BALKIN
THOMAS A. DICKERSON, JJ.

2006-03262

DECISION & ORDER

The People, etc., respondent,
v Damien Adams, appellant.

(Ind. No. 5662/05)

Lynn W. L. Fahey, New York, N.Y. (Julie A. Kleeman of counsel), for appellant, and appellant pro se.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Sholom J. Twersky, and O'Melveny & Myers LLP [Timothy N. Johnson] of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Collini, J.), rendered March 15, 2006, convicting him of manslaughter in the first degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the trial court gave an erroneous charge to the jury on the defense of justification is unpreserved for appellate review. The defendant failed to object to the charge at any time during trial. In fact, defense counsel specifically stated that he had no objection to the charge as given (*see People v Noor*, 177 AD2d 517).

In any event, this contention is without merit. The charge, considered as a whole, accurately conveyed the correct standard to the jury (*see People v Fields*, 87 NY2d 821, 823; *People v Edwards*, 19 AD3d 613; *People v Bradley*, 268 AD2d 591; *People v Noor*, 177 AD2d 517). Since the charge was proper, defense counsel was not ineffective in failing to object to the justification charge. Viewing defense counsel's performance in totality, counsel provided meaningful

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representation (*see People v Reeder*, 209 AD2d 551).

The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

The contentions raised in the defendant's pro se supplemental brief are unpreserved for appellate review and, in any event, are without merit.

SKELOS, J.P., COVELLO, BALKIN and DICKERSON, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer
Clerk of the Court