

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

D20705

W/hu

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - September 23, 2008

ROBERT A. LIFSON, J.P.  
DAVID S. RITTER  
HOWARD MILLER  
RUTH C. BALKIN, JJ.

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2006-03241

DECISION & ORDER

The People, etc., respondent,  
v Daryl Gregory, appellant.

(Ind. No. 1198/05)

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Steven Banks, New York, N.Y. (Alan S. Axelrod of counsel), and Proskauer Rose LLP, New York, N.Y. (Jessica Mastrogiovanni of counsel), for appellant (one brief filed).

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Jodi L. Mandel, and Goodwin Procter LLP [Keith A. Zullo and Alexander Rayskin], of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Guzman, J.), rendered March 13, 2006, convicting him of criminal sale of a controlled substance in the third degree (three counts), upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant argues that he was denied a fair trial by certain remarks made by the prosecutor during summation. However, this argument is not preserved for appellate review because the defendant either failed to make specific and timely objections, or failed to seek curative instructions or move for a mistrial where the trial court sustained objections (*see People v Morris*,

October 14, 2008

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2 AD3d 652). In any event, under the circumstances, any error was harmless (*see People v Tucker*, 27 AD3d 592).

LIFSON, J.P., RITTER, MILLER and BALKIN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive style with a large initial "J".

James Edward Pelzer  
Clerk of the Court