

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

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_____AD3d_____

Argued - October 17, 2008

WILLIAM F. MASTRO, J.P.
REINALDO E. RIVERA
JOSEPH COVELLO
JOHN M. LEVENTHAL, JJ.

2005-05993

DECISION & ORDER

The People, etc., respondent,
v Leshawn Williams, appellant.

(Ind. No. 7262/03)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Thomas M. Ross, and Helen M. Polyzos of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Feldman, J.), rendered May 25, 2005, convicting him of murder in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the trial court erred in permitting a conference between the prosecutor and a prosecution witness in the midst of the witness's testimony is unpreserved for appellate review (*see* CPL § 470.05[2]; *People v Cruz*, 23 AD3d 1109). In any event, the trial court providently exercised its discretion in granting the prosecutor's application for the mid-testimony conference (*see People v Branch*, 83 NY2d 663; *People v Davis*, 1 AD3d 607).

The defendant further contends that testimony adduced at trial and certain summation comments improperly suggested that he intimidated a prosecution witness and a potential witness, and had a connection to a person in the audience of the courtroom who caused the witness to become nervous during her testimony. However, any such error was harmless, as there was

overwhelming evidence of the defendant's guilt, and no significant probability that the alleged error contributed to his conviction (*see People v Crimmins*, 36 NY2d 230).

The contentions raised in the defendant's supplemental pro se brief are without merit.

MASTRO, J.P., RIVERA, COVELLO 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