

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

D22597
T/prt

_____AD3d_____

Submitted - February 9, 2009

STEVEN W. FISHER, J.P.
ANITA R. FLORIO
RUTH C. BALKIN
ARIEL E. BELEN, JJ.

2007-03325

DECISION & ORDER

The People, etc., respondent,
v Rohan Brown, appellant.

(Ind. No. 10024/06)

Lynn W. L. Fahey, New York, N.Y. (Anna Pervukhin of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Jeanette Lifschitz, and Rebecca Kramer of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Aloise, J.), rendered March 29, 2007, convicting him of criminal sale of a controlled substance in the second degree (two counts), criminal sale of a firearm in the third degree (eight counts), and criminal possession of a weapon in the third degree (ten 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 (*see* CPL 470.05[2]; *People v Morris*, 2 AD3d 652, 653). In any event, the challenged remarks constituted fair comment on the evidence (*see People v Ashwal*, 39 NY2d 105, 109), were responsive to arguments presented in the defense counsel's summation (*see*

People v Galloway, 54 NY2d 396, 400-401; *People v Baker*, 251 AD2d 592), or were harmless (see *People v Crimmins*, 36 NY2d 230, 239).

FISHER, J.P., FLORIO, BALKIN and BELEN, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court