

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

D22813
G/prt

_____AD3d_____

Argued - March 3, 2009

ROBERT A. SPOLZINO, J.P.
ANITA R. FLORIO
JOSEPH COVELLO
RANDALL T. ENG, JJ.

2005-05990

DECISION & ORDER

The People, etc., respondent,
v Quentin Briggs, appellant.

(Ind. No. 5482/03)

Charles T. Glaws, New York, N.Y., for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Anne C. Feigus of counsel; George P. Sieniawski on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Dowling, J.), rendered June 9, 2005, convicting him of assault in the first degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that he was denied a fair trial because the complaining witness made an unprompted, in-court identification of the defendant's brother as an accomplice in the assault is not preserved for appellate review (*see* CPL 470.05 [2]).

The defendant's contention that he was denied a fair trial because the Supreme Court misinterpreted two jury notes and gave readbacks which were prejudicial to him is without merit. The court's interpretation of the jury's notes was reasonable, and it provided meaningful responses to them (*see People v Almodovar*, 62 NY2d 126, 131, citing *People v Malloy*, 55 NY2d 296, 301, *cert denied* 459 US 847). In addition, the court's rulings and instructions during voir dire with respect to defendant counsel's comments regarding the lack of certain evidence were proper and did not prejudice the defendant (*see People v Francis*, 49 AD3d 552, 553).

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The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80, 85-86).

The defendant's remaining contentions are unpreserved for appellate review (*see* CPL 470.05[2]).

SPOLZINO, J.P., FLORIO, COVELLO and ENG, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court