

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

D23015
O/prt

_____AD3d_____

Submitted - March 26, 2009

ROBERT A. SPOLZINO, J.P.
MARK C. DILLON
ANITA R. FLORIO
ARIEL E. BELEN, JJ.

2007-03349

DECISION & ORDER

The People, etc., respondent,
v Alex Rudd, appellant.

(Ind. No. 4942/05)

Lynn W. L. Fahey, New York, N.Y. (Benjamin D. Gold of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Lori Glachman, and Marie John-Drigo of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Reichbach, J.), rendered April 5, 2007, convicting him of rape in the first degree, sexual abuse in the second degree (two counts), criminal sexual act in the first degree, and endangering the welfare of a child, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant failed to preserve for appellate review his challenges to the prosecutor's summation (*see* CPL 470.05[2]; *People v Tonge*, 93 NY2d 838; *People v Forest*, 52 AD3d 733) and cross-examination (*see* CPL 470.05[2]; *People v Lewis*, 48 AD3d 483; *People v Lawrence*, 4 AD3d 436). In any event, the challenged remarks in the prosecutor's summation did not rise to the level of reversible error, as they were either responsive to defense counsel's summation, constituted fair comment on the evidence or inferences drawn therefrom, or did not deprive the defendant of a fair trial (*see People v Meeks*, 56 AD3d 800; *People v Forest*, 52 AD3d 733; *People v Holguin*, 284 AD2d 343).

May 5, 2009

PEOPLE v RUDD, ALEX

Page 1.

Moreover, the defendant's challenge to the prosecutor's cross-examination is without merit (*see People v Lewis*, 48 AD3d 483; *People v Hill*, 47 AD3d 838).

The defendant's remaining contentions are without merit.

SPOLZINO, J.P., DILLON, FLORIO and BELEN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court