

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

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_____AD3d_____

Argued - April 7, 2009

MARK C. DILLON, J.P.
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON
RANDALL T. ENG, JJ.

2007-02977

DECISION & ORDER

The People, etc., respondent,
v Towaun Coleman, appellant.

(Ind. No. 270/06)

Lynn W. L. Fahey, New York, N.Y. (Sarah J. Berger of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Sholom J. Twersky, and Justin Goodyear of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (McKay, J.), rendered March 7, 2007, convicting him of robbery in the first degree (three counts), burglary in the first degree (two counts), and criminal possession of stolen property in the fifth degree (two counts), upon a jury verdict, and imposing sentence. The appeal brings up for review the denial, after a hearing, of those branches of the defendant's omnibus motion which were to suppress identification testimony and physical evidence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, the Supreme Court did not err in denying those branches of his omnibus motion which were to suppress certain identification testimony and physical evidence, as the evidence at the suppression hearing permitted the Supreme Court to infer that the two police officers who stopped and detained the defendant just prior to his arrest had reasonable suspicion to do so based on the information that they had received minutes earlier from a radio transmission made by another officer (*see People v Gonzalez*, 91 NY2d 909, 910; *People v Sabeno*, 223 AD2d 512, 513; *Matter of Robert S.*, 159 AD2d 358).

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The defendant failed to preserve for appellate review his contention that certain comments made by the prosecutor during summation deprived him of a fair trial, since the defendant failed to object or raised only a general objection to those comments (*see* CPL 470.05[2]; *People v Williams*, 50 AD3d 710, 711). In any event, the challenged comments, for the most part, were “fair comment on the evidence, permissible rhetorical comment, or responsive to the defense counsel’s summation” (*People v Gillespie*, 36 AD3d 626, 627), and any improper statements “were not so flagrant or pervasive as to deny the defendant a fair trial” (*People v Almonte*, 23 AD3d 392, 394; *see People v Svanberg*, 293 AD2d 555).

DILLON, J.P., ANGIOLILLO, DICKERSON and ENG, 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