

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

D23840
T/prt

_____AD3d_____

Submitted - June 1, 2009

REINALDO E. RIVERA, J.P.
MARK C. DILLON
RUTH C. BALKIN
LEONARD B. AUSTIN, JJ.

2007-06834

DECISION & ORDER

The People, etc., respondent,
v Janaoid Johnson, appellant.

(Ind. No. 06-00473)

Jane M. Bloom, Rock Hill, N.Y., for appellant.

Francis D. Phillips II, District Attorney, Goshen, N.Y. (Elizabeth L. Guinup and Andrew R. Kass of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Orange County (Freehill, J.), rendered June 21, 2007, convicting him of attempted murder in the second degree, assault in the first degree (two counts), criminal possession of a weapon in the second degree, criminal possession of a weapon in the third degree (two counts), reckless endangerment in the first degree, and assault in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant failed to preserve for appellate review his contention that certain comments made by the prosecutor during summation were improper (*see* CPL 470.05[2]; *People v Romero*, 7 NY3d 911, 912; *People v Rodari*, 2 AD3d 756, 756-757; *People v Scott*, 267 AD2d 259, 260).

Viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620), we find that it was legally sufficient to establish the defendant's guilt beyond a reasonable doubt.

In fulfilling our responsibility to conduct an independent review of the weight of the

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evidence (*see* CPL 470.15[5]; *People v Danielson*, 9 NY3d 342, 348), we nevertheless accord great deference to the jury's opportunity to view the witnesses, hear the testimony, and observe demeanor (*see People v Mateo*, 2 NY3d 383, 410, *cert denied* 542 US 946; *People v Bleakley*, 69 NY2d 490, 495). Upon reviewing the record here, we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

The sentence imposed was not excessive (*see* CPL 470.15[2][c], [6][b]; CPL 470.20[6]; *People v Thompson*, 60 NY2d 513, 519; *People v Suitte*, 90 AD2d 80).

RIVERA, J.P., DILLON, BALKIN and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court