

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

D25641
H/kmg

_____AD3d_____

Submitted - November 13, 2009

JOSEPH COVELLO, J.P.
FRED T. SANTUCCI
CHERYL E. CHAMBERS
L. PRISCILLA HALL, JJ.

2007-06450

DECISION & ORDER

The People, etc., respondent,
v Taneshia Brock, appellant.

(Ind. No. 1701/06)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Jodi L. Mandel, and Bruce Alderman of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Ingram, J.), rendered June 19, 2007, as amended August 1, 2007, convicting her of assault in the second degree and criminal possession of a weapon in the fourth degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment, as amended, is affirmed.

The defendant failed to preserve for appellate review her contention that the sentence imposed by the Supreme Court improperly penalized her for exercising her right to a jury trial, because she did not set forth the issue on the record at the time of sentencing (*see People v Hurley*, 75 NY2d 887, 888; *People v Herrera*, 16 AD3d 699, 700). In any event, the fact that the sentence imposed after trial was greater than the sentence offered during plea negotiations is no indication that the defendant was punished for asserting her right to proceed to trial (*see People v Pena*, 50 NY2d 400, 411-412, *cert denied* 449 US 1087; *People v Garcia*, 66 AD3d 699). Moreover, the sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

COVELLO, J.P., SANTUCCI, CHAMBERS and HALL, JJ., concur.

ENTER:


James Edward Pelzer

January 5, 2010

PEOPLE v BROCK, TANESHIA

Clerk of the Court

January 5, 2010

PEOPLE v BROCK, TANESHIA