

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

D26344
C/kmg

_____AD3d_____

Argued - January 28, 2010

A. GAIL PRUDENTI, P.J.
MARK C. DILLON
RANDALL T. ENG
SHERI S. ROMAN, JJ.

2007-01328

DECISION & ORDER

The People, etc., respondent,
v Jamel Ash, appellant.

(Ind. No. 629/06)

Steven Banks, New York, N.Y. (Svetlana M. Kornfeind of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Ruth E. Ross of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Marrus, J.), rendered January 30, 2007, convicting him of rape in the first degree and burglary in the second 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 the admission of People's Exhibit Nos. 6 and 7 deprived him of a fair trial (*see* CPL 470.05[2]). In any event, insofar as both exhibits summarized information from various DNA reports, they were properly admitted under the voluminous writing exception to the best evidence rule (*see Ed Guth Realty v Gingold*, 34 NY2d 440; *Sager Spuck Statewide Supply Co. v Meyer*, 298 AD2d 794; *People v Potter*, 255 AD2d 763; *People v Weinberg*, 183 AD2d 932). Furthermore, we note that before trial, the defendant was provided with copies of all the DNA reports (*see Ed Guth Realty v Gingold*, 34 NY2d 440; *Sager Spuck Statewide Supply Co. v Meyer*, 298 AD2d 794; *People v Potter*, 255 AD2d 763; *People v Weinberg*, 183 AD2d 932).

PRUDENTI, P.J., DILLON, ENG and ROMAN, JJ., concur.

ENTER:


James Edward Pelzer

March 2, 2010

PEOPLE v ASH, JAMEL

Clerk of the Court

March 2, 2010

PEOPLE v ASH, JAMEL