

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

D27261  
H/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - April 20, 2010

MARK C. DILLON, J.P.  
HOWARD MILLER  
THOMAS A. DICKERSON  
CHERYL E. CHAMBERS, JJ.

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2007-08468

DECISION & ORDER

The People, etc., respondent,  
v James Clark Brown, appellant.

(Ind. No. 2491/06)

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Lynn W. L. Fahey, New York, N.Y. (Joshua M. Levine of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (Gary Fidel and Ayelet Sela of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Cooperman, J.), rendered August 9, 2007, convicting him of rape in the first degree (two counts), attempted rape in the first degree, criminal sexual assault in the first degree (two counts), and robbery in the first degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, the trial court did not err in refusing to give an intoxication charge to the jury (*see* Penal Law § 15.25). Viewing the intoxication evidence in the light most favorable to the defendant (*see People v Gaines*, 83 NY2d 925, 927), we find that it was insufficient to allow a reasonable person to entertain a doubt as to the element of intent (*id.*; *see People v Sirico*, 66 AD3d 1047; *People v Garcia*, 271 AD2d 695; *People v Hernandez*, 161 AD2d 664; *People v Rodriguez*, 155 AD2d 627, *affd* 76 NY2d 918).

DILLON, J.P., MILLER, DICKERSON and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

May 11, 2010

PEOPLE v BROWN, JAMES CLARK