

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

D27374
Y/prt

_____AD3d_____

Argued - April 23, 2010

STEVEN W. FISHER, J.P.
RUTH C. BALKIN
SHERI S. ROMAN
SANDRA L. SGROI, JJ.

2007-11771

DECISION & ORDER

The People, etc., respondent,
v Kevin Reid, appellant.

(Ind. No. 814/05)

Lynn W. L. Fahey, New York, N.Y. (De Nice Powell of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (Gary Fidel and Jill Gross-Marks of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Lasak, J.), rendered November 28, 2007, convicting him of murder in the second degree (two counts), attempted robbery in the first degree (two counts), attempted robbery in the second degree, criminal possession of a weapon in the second degree, criminal possession of a weapon in the third degree, and tampering with physical evidence, upon a jury verdict, and imposing sentence. The appeal brings up for review the denial, and the adherence to the denial, after two hearings (Eng, J.), of that branch of the defendant's omnibus motion which was to suppress identification testimony.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contentions, the testimony presented at the two hearings established that his identification by a witness was merely confirmatory, and that branch of the defendant's motion which was to suppress that witness's identification testimony was thus properly denied (*see People v Rodriguez*, 79 NY2d 445).

Contrary to the defendant's contention, the trial court properly redacted his medical records (*see People v Attawwab*, 304 AD2d 672; *People v Anjorie*, 300 AD2d 500; *People v Hopson*,

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182 AD2d 441).

The defendant's contention that he was deprived of a fair trial because of certain allegedly improper comments made during the prosecutor's summation is not preserved for appellate review because he failed to make a timely and specific objection in the trial court (*see* CPL 470.05[2]; *People v Wright*, 182 AD2d 793). In any event, the challenged remarks were responsive to defense counsel's summation, constituted fair comment on the evidence, or constituted harmless error (*see generally* *People v Wright*, 182 AD2d 793; *People v Gonzalez*, 45 AD3d 696, 696-697; *People v Pierre*, 30 AD3d 622).

The defendant's remaining contentions are without merit.

FISHER, J.P., BALKIN, ROMAN and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court