

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

D27796
C/hu

_____AD3d_____

Argued - May 25, 2010

STEVEN W. FISHER, J.P.
FRED T. SANTUCCI
HOWARD MILLER
PLUMMER E. LOTT, JJ.

2007-09177

DECISION & ORDER

The People, etc., respondent,
v Donnell Lassiter, appellant.

(Ind. No. 752/07)

Lynn W. L. Fahey, New York, N.Y. (Steven R. Bernhard of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Rhea A. Grob, and Kirkland Ellis, LLP [Joseph Loy], of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Chun, J.), rendered September 27, 2007, convicting him of assault in the first degree and criminal possession of a weapon in the second degree (two counts), upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the testimony of a police detective improperly bolstered the prior identification of the defendant by certain eyewitnesses, in violation of the principles enunciated in *People v Trowbridge* (305 NY 471), is unpreserved for appellate review (*see People v West*, 56 NY2d 662, 663; *see also People v Melendez*, 51 AD3d 1040, 1041). In any event, the contention is without merit. The detective's testimony did not have a bolstering effect because he did not refer to the witnesses's identification of the defendant (*see People v Moore*, 159 AD2d 521, 522; *People v Middleton*, 128 AD2d 554, 554).

The defendant was not deprived of the effective assistance of counsel (*see People v Taylor*, 1 NY3d 174, 176-178; *People v Benevento*, 91 NY2d 708, 712).

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The defendant's remaining contentions are unpreserved for appellate review (*see* CPL 470.05[2]) and, in any event, are without merit.

FISHER, J.P., SANTUCCI, MILLER and LOTT, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, looping initial "J".

James Edward Pelzer
Clerk of the Court