

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

D27860
C/hu

_____AD3d_____

Argued - May 24, 2010

WILLIAM F. MASTRO, J.P.
JOSEPH COVELLO
ARIEL E. BELEN
L. PRISCILLA HALL, JJ.

2008-09168

DECISION & ORDER

The People, etc., respondent,
v Assim Mohammed, appellant.

(Ind. No. 201/06)

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

Daniel M. Donovan, Jr., District Attorney, Staten Island, N.Y. (Morrie I. Kleinbart
and Michael Shollar of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Richmond County (Collini, J.), rendered January 15, 2008, convicting him of criminal sale of a controlled substance in the third degree and criminal possession of a controlled substance in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that certain remarks in the prosecutor's summation were improper and constituted reversible error is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Tonge*, 93 NY2d 838, 840). In any event, the challenged remarks were either permissible rhetorical comment, a fair response to the arguments and issues raised by the defense, fair comment on the evidence (*see People v Galloway*, 54 NY2d 396; *People v Ashwal*, 39 NY2d 105; *People v Shagi*, 288 AD2d 495, 496), or harmless error (*see People v Crimmins*, 36 NY2d 230; *People v Maldonado*, 55 AD3d 626).

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The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80, 83).

MASTRO, J.P., COVELLO, BELEN and HALL, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court