

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

D28142
Y/hu

_____AD3d_____

Submitted - June 11, 2010

REINALDO E. RIVERA, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
SANDRA L. SGROI, JJ.

2008-03258

DECISION & ORDER

The People, etc., respondent,
v George Gonzalez, appellant.

(Ind. No. 43/07)

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

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Sharon Y. Brodt, and Rebecca Kramer of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Knopf, J.), rendered March 25, 2008, convicting him of criminal possession of stolen property in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant contends that certain remarks made by the prosecutor during summation were improper and deprived him of a fair trial. Reversal is not warranted because the remarks either were responsive to the defense counsel's summation or constituted fair comment on the evidence, and in any event did not deprive the defendant of a fair trial (*see People v Porco*, 71 AD3d 791, 794; *People v Garcia*, 66 AD3d 699, 700, *lv denied* 14 NY3d 800; *People v Rudd*, 62 AD3d 729).

The defendant failed to preserve for appellate review his challenge to the legal sufficiency of the evidence supporting his conviction of criminal possession of stolen property in the third degree pursuant to Penal Law § 165.50 (*see CPL 470.05*[2]; *People v Hawkins*, 11 NY3d 484, 492-495; *People v Gray*, 86 NY2d 10, 19-20; *People v Williams*, 38 AD3d 925, 925-926). In any

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event, viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620, 621), we find that it was legally sufficient to establish that the defendant knowingly possessed stolen property (*see People v Cintron*, 95 NY2d 329, 332; *People v Zorcik*, 67 NY2d 670, 671; *People v Derrell*, 6 AD3d 625, 626), and that the value of the property exceeded \$3,000 (*see People v Bravo*, 295 AD2d 213, 214; *cf. People v Womble*, 111 AD2d 283, 283-284). Further, upon our independent review of the evidence pursuant to CPL 470.15(5), we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Danielson*, 9 NY3d 342; *People v Romero*, 7 NY3d 633).

RIVERA, J.P., COVELLO, ANGIOLILLO and SGROI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court