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

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_____AD3d_____ Argued - October 7, 2010

STEVEN W. FISHER, J.P.
FRED T. SANTUCCI
RANDALL T. ENG
SANDRA L. SGROI, JJ.

2008-03259 DECISION & ORDER

The People, etc., respondent,
v Ricardo Garcia-Villegas, appellant.

(Ind. No. 1127/06)

Lynn W. L. Fahey, New York, N.Y. (Lisa Napoli of counsel), for appellant, and appellant pro se.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John N. Castellano, Johnnette Traill, and Danielle Hartman of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Gavrin, J.), rendered March 24, 2008, convicting him of murder in the second degree, tampering with physical evidence, and criminal possession of a weapon in the fourth degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant contends that he was deprived of his right to a fair trial because of certain allegedly improper comments made by the prosecutor on summation. The defendant's contentions, however, are not preserved for appellate review (*see* CPL 470.05[2]), inasmuch as the defendant either failed to object to the comments he now challenges, or made only general objections (*see People v Harris,* 98 NY2d 452, 491 n 18; *People v Tonge,* 93 NY2d 838, 839-840; *People v Jones,* 76 AD3d 716; *People v Banks,* 74 AD3d 1214, *lv denied* 15 NY3d 849; *People v Bey,* 71 AD3d 1156). In any event, although several of the prosecutor's comments were better left unsaid, they did not, singly or in combination, deprive the defendant of a fair trial (*see People v Lewis,* 72

AD3d 705, 707; *People v Porco,* 71 AD3d 791, *lv granted* 15 NY3d 854; *People v Walser,* 71 AD3d 706; *People v Valerio,* 70 AD3d 869).

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

The defendant's contention raised in his supplemental pro se brief is unpreserved for appellate review (*see* CPL 470.05[2]) and, in any event, under the circumstances of this case, does not require reversal (*cf.* CPL 470.15[6][a]).

The defendant's remaining contention is without merit.

FISHER, J.P., SANTUCCI, ENG and SGROI, JJ., concur.

ENTER:

Matthew G. Kiernan
Clerk of the Court