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

D29246
Y/prt

_____AD3d_____ Argued - October 28, 2010

REINALDO E. RIVERA, J.P.
DANIEL D. ANGIOLILLO
SHERI S. ROMAN
SANDRA L. SGROI, JJ.

2009-01622 DECISION & ORDER

The People, etc., respondent,
v Evon Robinson, appellant.

(Ind. No. 702/06)

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

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Nicoletta J. Caferri, and Laura T. Ross of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Lasak, J.), rendered February 4, 2009, convicting him of manslaughter in the first degree, criminal possession of a weapon in the fourth degree, and tampering with physical evidence (two counts), upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

In determining whether the trial court has responded meaningfully to the jury's request for further instruction (*see* CPL 310.30), the factors to be evaluated are the form of the jury's question, the particular issue of which inquiry is made, the supplemental instruction actually given, and the presence or absence of prejudice to the defendant (*see People v Almodovar,* 62 NY2d 126, 131-132; *People v Malloy,* 55 NY2d 296, 302, *cert denied* 459 US 847; *People v Ariza,* 77 AD3d 844). Under all the facts of this case, the defendant was not prejudiced when the trial court declined to deliver the specific additional charge he requested.

Furthermore, under the particular facts of this case, the defendant's remaining contentions do not require a reversal or modification of the judgment.

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

ENTER:

Matthew G. Kiernan
Clerk of the Court