

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

D30020
Y/prt

_____AD3d_____

Submitted - January 13, 2011

ANITA R. FLORIO, J.P.
THOMAS A. DICKERSON
CHERYL E. CHAMBERS
PLUMMER E. LOTT, JJ.

2006-08858

DECISION & ORDER

The People, etc., respondent,
v Sherman Rivers, appellant.

(Ind. No. 663/05)

Robert Didio, Kew Gardens, N.Y., for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Howard B. Goodman of counsel; Rosemari Y. Nam on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Marrus, J.), rendered August 2, 2006, convicting him of arson in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that he was deprived of a fair trial as a result of the prosecutor's improper cross-examination of the defendant is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Thompson*, 62 AD3d 817, 818). In any event, any error arising from the prosecutor's cross-examination of the defendant was harmless, as there was overwhelming evidence of the defendant's guilt, and there is no significant probability that any impropriety in the prosecutor's cross-examination of the defendant affected the verdict (*see People v Crimmins*, 36 NY2d 230, 242; *People v Damon*, 78 AD3d 860, 860-861).

The defendant's contention regarding the trial court's charge to the jury concerning his status as an interested witness is also unpreserved for appellate review (*see* CPL 470.05[2]; *People v Dees*, 45 AD3d 602, 603). In any event, any error was harmless (*see People v Crimmins*,

36 NY2d at 242; *People v Katz*, 214 AD2d 586).

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

FLORIO, J.P., DICKERSON, CHAMBERS and LOTT, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court