

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

D36528  
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\_\_\_\_\_AD3d\_\_\_\_\_

Argued - October 25, 2012

ANITA R. FLORIO, J.P.  
JOHN M. LEVENTHAL  
LEONARD B. AUSTIN  
JEFFREY A. COHEN, JJ.

2009-04906

DECISION & ORDER

The People, etc., respondent,  
v Lamar Moore, appellant.

(Ind. No. 2626/06)

Steven Banks, New York, N.Y. (Martin Lucente of counsel), for appellant.

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

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Lasak, J.), rendered May 6, 2009, convicting him of assault in the second degree and criminal possession of a weapon in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

In denying the defendant's challenge pursuant to *Batson v Kentucky* (476 US 79, 96), the Supreme Court properly determined that the race-neutral reasons given by the prosecutor for exercising peremptory challenges with respect to several African-American jurors were not a pretext for discrimination (*see People v Smocum*, 99 NY2d 418, 421; *People v Richie*, 217 AD2d 84, 89; *see also Thaler v Haynes*, \_\_\_\_ US \_\_\_\_, 130 S Ct 1171; *People v Johnson*, 73 AD3d 578).

The defendant's contention that the admission of certain evidence violated his constitutional right to confrontation is unpreserved for appellate review (*see CPL 470.05[2]*; *People v Gray*, 86 NY2d 10, 21), and we decline to reach it in the exercise of our interest of justice jurisdiction.

The Supreme Court properly denied the defendant's request for a justification charge

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since, viewing the evidence in the light most favorable to him, there was no reasonable view of the evidence establishing the elements of the defense (*see* Penal Law § 35.15[2][a]; *People v Grady*, 40 AD3d 1368; *see also People v Reynoso*, 73 NY2d 816, 818).

The defendant's remaining contention, regarding the People's introduction into evidence of an alias used by him, is without merit.

FLORIO, J.P., LEVENTHAL, AUSTIN and COHEN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino  
Clerk of the Court