

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

67

KA 07-00836

PRESENT: SMITH, J.P., CENTRA, FAHEY, GREEN, AND PINE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

LA'SHAWN D. BROWN, DEFENDANT-APPELLANT.

FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (PHILIP ROTHSCHILD OF COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (VICTORIA M. WHITE OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Onondaga County Court (William D. Walsh, J.), rendered May 2, 2006. The judgment convicted defendant, upon a jury verdict, of criminal possession of a weapon in the second degree, criminal possession of a weapon in the third degree (two counts) and reckless endangerment in the first degree.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting him upon a jury verdict of, inter alia, criminal possession of a weapon in the second degree (Penal Law § 265.03 [former (2)]). Viewing the evidence in light of the elements of the crimes as charged to the jury (see *People v Danielson*, 9 NY3d 342, 349), and according great deference to the jury's resolution of credibility issues, we conclude that the verdict is not against the weight of the evidence (see generally *People v Bleakley*, 69 NY2d 490, 495). The record does not support defendant's contention that evidentiary rulings by County Court during the cross-examination by defendant of certain prosecution witnesses impaired his ability to present a defense (see *People v Martin*, 33 AD3d 1024, lv denied 8 NY3d 882; see also *People v Macuil*, 67 AD3d 1025). Contrary to defendant's further contention, the prosecutor did not improperly vouch for the credibility of a witness during his summation but, rather, his statements were fair comment on the credibility of that witness, in response to the defense counsel's summation (see *People v Lazzaro*, 62 AD3d 1035; *People v Williams*, 52 AD3d 851, lv denied 11 NY3d 836).

Entered: February 11, 2010

Patricia L. Morgan
Clerk of the Court