



## PEOPLE STATE NEW YORK v. FREDERICK DIAZ

544 N.Y.S.2d 500 (1989) | Cited 2 times | New York Supreme Court | August 7, 1989

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Lagana, J.), rendered October 21, 1986, convicting him of murder in the second degree (four counts), upon a jury verdict, and imposing sentence.

Ordered that the judgment is affirmed.

We do not reach the merits of the defendant's claims of an improper prosecutorial summation and errors in the charge as these claims are unpreserved for appellate review (see, CPL 470.05 [2]; *People v Udzinski*, 146 A.D.2d 245; *People v Allen*, 135 A.D.2d 823; *People v Jalah*, 107 A.D.2d 762) and under the circumstances, review in the interest of justice is not warranted. We note, however, that while the prosecutor did make one improper comment during cross-examination of the defendant, it was harmless (see, *People v Crimmins*, 36 N.Y.2d 230).

Finally, we see no reason to disturb the defendant's sentence (see, *People v Suitte*, 90 A.D.2d 80). Mollen, P.J., Thompson, Lawrence and Eiber, JJ., concur.

