

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

D19908  
W/cb

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - May 6, 2008

STEVEN W. FISHER, J.P.  
DAVID S. RITTER  
ANITA R. FLORIO  
EDWARD D. CARNI, JJ.

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2006-10575

DECISION & ORDER

The People, etc., respondent,  
v Randall Dantzler, appellant.

(Ind. No. 3588/05)

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Lynn W. L. Fahey, New York, N.Y. (Benjamin D. Gold of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Rhea A. Grob of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Holdman, J.), rendered November 3, 2006, convicting him of assault in the second degree, criminal possession of a weapon in the second degree, and criminal possession of a weapon in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The trial court properly granted the People's request for a missing witness charge with respect to the defendant's mother since, according to the defendant's own testimony, she was sufficiently knowledgeable about his whereabouts at the time of the crime as to make her testimony material to his defense and not cumulative (*see People v Torres*, 255 AD2d 129; *People v Smith*, 240 AD2d 600, 601).

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

FISHER, J.P., RITTER, FLORIO and CARNI, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

July 1, 2008

PEOPLE v DANTZLER, RANDALL