

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

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Submitted - September 25, 2006

STEPHEN G. CRANE, J.P.  
GABRIEL M. KRAUSMAN  
ROBERT A. SPOLZINO  
PETER B. SKELOS, JJ.

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2004-07114

DECISION & ORDER

The People, etc., respondent,  
v Rashaan Brown, appellant.

(Ind. No. 7690/02)

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Lynn W. L. Fahey, New York, N.Y. (M. Chris Fabricant of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Anthea H. Bruffee, and Judith M. Donovan of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Hall, J.), rendered August 6, 2004, convicting him of manslaughter in the first degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant contends that the Supreme Court erred in failing to charge the jury on the defense of justification. This claim is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Edwards*, 28 AD3d 491, 492; *People v Seeley*, 13 AD3d 562; *People v Barrett*, 11 AD3d 551, 552; *People v Bolton*, 213 AD2d 660). In any event, the Supreme Court properly denied the defendant's request for a justification charge since no reasonable view of the evidence supported such a charge. The defendant stabbed the victim through the chest and heart, when the victim was unarmed, and the defendant had no reason to believe that the victim was carrying a weapon or was

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about to use deadly physical force against him (*see* Penal Law § 35.15[2][a]; *People v Krebs*, 11 AD3d 713; *People v Porter*, 161 AD2d 811; *People v Harris*, 134 AD2d 369, 369-370).

CRANE, J.P., KRAUSMAN, SPOLZINO and SKELOS, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court