

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

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Submitted - October 6, 2006

ROBERT W. SCHMIDT, J.P.
FRED T. SANTUCCI
WILLIAM F. MASTRO
STEVEN W. FISHER, JJ.

2004-09213

DECISION & ORDER

The People, etc., respondent,
v Jose Jaquez, appellant.

(Ind. No. 10376/03)

Lynn W. L. Fahey, New York, N.Y. (William Kastin of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano,
Nicoletta J. Caferri, and Marie Christine Amy of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Cooperman, J.), rendered October 13, 2004, convicting him of criminal sale of a controlled substance in the third degree (four counts), upon a jury verdict, and sentencing him to four indeterminate terms of one to three years imprisonment under counts one through four of the indictment, all the sentences to run consecutively.

ORDERED that the judgment is modified, as a matter of discretion in the interest of justice, by directing that the terms of imprisonment imposed on the defendant's convictions under counts one and two of the indictment run concurrently with each other, the terms of imprisonment imposed on the defendant's convictions under counts three and four of the indictment run concurrently with each other, and the terms of imprisonment imposed on the defendant's convictions under counts one and two of the indictment run consecutively with the terms of imprisonment imposed on the defendant's convictions under counts three and four of the indictment; as so modified, the judgment is affirmed.

November 14, 2006

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The sentence imposed is excessive to the extent indicated herein.

The defendant's remaining contention does not require reversal.

SCHMIDT, J.P., SANTUCCI, MASTRO and FISHER, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court