

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

D12653  
Y/cb

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

Argued - October 5, 2006

ANITA R. FLORIO, J.P.  
HOWARD MILLER  
GLORIA GOLDSTEIN  
ROBERT J. LUNN, JJ.

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2004-05744

DECISION & ORDER

The People, etc., respondent,  
v Shawn Owens, appellant.

(Ind. No. 4805/03)

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Lynn W. L. Fahey, New York, N.Y. (Chadbourne & Parke, LLP [Thomas E. Butler and Kimberly A. Horn] of counsel), for appellant, and appellant pro se.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Thomas M. Ross, and Albert Berry III of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Goldberg, J.), rendered June 16, 2004, convicting him of criminal possession of a controlled substance in the third degree (two counts), upon a jury verdict, and imposing sentence. The appeal brings up for review the denial, after a hearing, of that branch of the defendant's omnibus motion which was to suppress physical evidence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, there is no basis for disturbing the factual findings and credibility determinations of the hearing court, which are entitled to great deference on appeal (*see People v Prochilo*, 41 NY2d 759, 761; *People v Lawes*, 15 AD3d 417, 418, *lv denied* 7 NY3d 758). The record supports the hearing court's finding that the crack cocaine recovered from the defendant's person was pursuant to a lawful search.

November 21, 2006

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Viewing the evidence, the law, and the circumstances of the case, we conclude that the defendant was afforded meaningful representation of counsel (*see People v Baldi*, 54 NY2d 137, 147).

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

FLORIO, J.P., MILLER, GOLDSTEIN and LUNN, JJ., concur.

ENTER:

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

James Edward Pelzer  
Clerk of the Court