

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

D12715  
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Submitted - October 10, 2006

THOMAS A. ADAMS, J.P.  
REINALDO E. RIVERA  
PETER B. SKELOS  
ROBERT A. LIFSON, JJ.

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2003-06953

DECISION & ORDER

The People, etc., respondent,  
v Luis Bianchi, appellant.

(Ind. No. 1785/02)

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Lynn W. L. Fahey, New York, N.Y. (Steven R. Bernhard of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Seth M. Lieberman of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Del Guidice, J.), rendered July 10, 2003, 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 prosecutor violated the Supreme Court's *Sandoval* ruling (*see People v Sandoval*, 34 NY2d 371). However, any perceived error was harmless in light of the court's curative instructions (*see People v Lovacco*, 59 NY2d 294, 299-300; *People v Ross*, 262 AD2d 429, 429-430) and the overwhelming evidence of the defendant's guilt (*see People v Crimmins*, 36 NY2d 230).

Further, the replacement of the defendant's assigned counsel with standby counsel on the ground that counsel's health issues could have affected his ability to communicate with the jury was appropriate (*see People v Knowles*, 88 NY2d 763, 766-767; *People v Childs*, 247 AD2d 319, 324-326).

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

ADAMS, J.P., RIVERA, SKELOS and LIFSON, JJ., concur.

ENTER:

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

James Edward Pelzer  
Clerk of the Court