

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

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_____AD3d_____

Argued - November 20, 2006

THOMAS A. ADAMS, J.P.
DAVID S. RITTER
STEVEN W. FISHER
JOSEPH COVELLO, JJ.

2005-02607

DECISION & ORDER

The People, etc., respondent,
v Tyron Eley, appellant.

(Ind. No. 568/04)

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 Thomas S. Burka of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Feldman, J.), rendered March 9, 2005, convicting him of murder in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant contends that the trial court erred in allowing the prosecution to peremptorily challenge a prospective juror after the defendant had indicated his satisfaction with a venire panel and after the defendant had exercised his peremptory challenges to the panel (*see* CPL 270.15[2]; *People v Marganti*, 22 NY2d 679, *cert denied sub nom Morganti v New York*, 393 US 946; *People v Lebron*, 236 AD2d 423). The defendant's failure to object to the challenge when made, however, waived the rights secured to him under CPL 270.15(2) (*see People v Mancuso, supra; People v Lebron, supra*).

December 5, 2006

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The defendant's remaining contentions are without merit.

ADAMS, J.P., RITTER, FISHER and COVELLO, 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