

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

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C/hu

_____AD3d_____

Argued - November 21, 2006

HOWARD MILLER, J.P.
STEPHEN G. CRANE
ROBERT A. LIFSON
MARK C. DILLON, JJ.

2005-06924

DECISION & ORDER

The People, etc., respondent,
v Selworth Smith, appellant.

(Ind. No. 10909/03)

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

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Sharon Y. Brodt, and Michael Horn of counsel; Lorrie A. Zinno on the brief), for respondent.

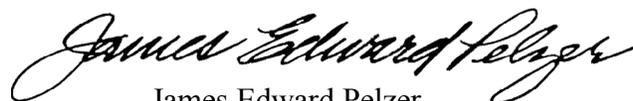
Appeal by the defendant from a judgment of the Supreme Court, Queens County (McGann, J.), rendered June 21, 2005, convicting him of criminal possession of a controlled substance in the fifth degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant validly waived his right to appeal (*see People v Ramos*, 7 NY3d 737, 738; *People v Ciatto*, 290 AD2d 560, 560-562). His plea of guilty and waiver foreclose appellate review of his challenge to the denial of that branch of his motion which was to suppress physical evidence (*see People v Wager*, _____AD3d_____ [2d Dept, Nov. 8, 2006]).

MILLER, J.P., CRANE, LIFSON and DILLON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

December 19, 2006

PEOPLE v SMITH, SELWORTH