

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

D13811  
W/hu

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

Submitted - January 5, 2007

WILLIAM F. MASTRO, J.P.  
GABRIEL M. KRAUSMAN  
STEVEN W. FISHER  
ROBERT A. LIFSON, JJ.

2003-09874

DECISION & ORDER

The People, etc., respondent,  
v Nehemiah Rolle, appellant.

(Ind. No. 1677N/02)

Marianne Karas, Armonk, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Karen Wigle Weiss and Margaret E. Mainusch of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (Berkowitz, J.), rendered September 19, 2003, convicting him of grand larceny in the fourth degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, his waiver of his right to counsel was unequivocal, and was knowingly, voluntarily, and intelligently made (*see People v Providence*, 2 NY3d 579; *People v Savage*, 29 AD3d 1022). The trial court undertook a sufficiently searching inquiry of the defendant to be reasonably certain that the dangers and disadvantages of giving up the fundamental right to counsel were impressed upon him (*see People v Providence, supra; People v Savage, supra*).

The defendant's claim that the judge who presided at his trial and sentencing should have recused herself is without merit. Since no basis for disqualification pursuant to Judiciary Law § 14 was presented, it was up to the conscience and discretion of the judge to decide whether or not

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to recuse herself (*see People v Daly*, 20 AD3d 542; *People v Hines*, 260 AD2d 646). Based upon the record before us, we conclude that the judge properly declined to recuse herself.

The defendant's remaining contentions are without merit.

MASTRO, J.P., KRAUSMAN, FISHER and LIFSON, JJ., concur.

ENTER:

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

James Edward Pelzer  
Clerk of the Court