

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

D14055  
G/cb

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

Argued - January 18, 2007

A. GAIL PRUDENTI, P.J.  
GABRIEL M. KRAUSMAN  
MARK C. DILLON  
WILLIAM E. McCARTHY, JJ.

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2005-04737

DECISION & ORDER

The People, etc., respondent,  
v Andres Familia, appellant.

(Ind. No. 5178/03)

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Lynn W. L. Fahey, New York, N.Y. (De Nice Powell of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Shulamit Rosenblum of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Reichbach, J.), rendered May 12, 2005, convicting him of murder in the second degree, attempted murder in the second degree, and criminal possession of a weapon in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's challenges to the charge given by the trial court on the issue of justification are unpreserved for appellate review (*see* CPL 470.05[2]; *People v Gray*, 86 NY2d 10, 19; *People v Seeley*, 13 AD3d 562). In any event, the court's charge was proper (*see People v Floyd*, 34 AD3d 494; *People v Carranza*, 306 AD2d 351, 352-353, *affd* 3 NY3d 729; *People v Ramos*, 168 AD2d 518).

The defendant's argument alleging ineffective assistance of counsel is without merit

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(see *People v Benevento*, 91 NY2d 708, 714; *People v Dowicyan*, 19 AD3d 613).  
The defendant's remaining contention is without merit.

PRUDENTI, P.J., KRAUSMAN, DILLON and McCARTHY, 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