

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

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_____AD3d_____

Submitted - February 7, 2007

WILLIAM F. MASTRO, J.P.
DAVID S. RITTER
PETER B. SKELOS
EDWARD D. CARNI
WILLIAM E. McCARTHY, JJ.

2005-01725

DECISION & ORDER

The People, etc., respondent,
v Jabbar Campbell, appellant.

(Ind. No. 1360/04)

Lynn W. L. Fahey, New York, N.Y. (Paul Skip Laisure of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Jane S. Meyers of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Hall, J.), rendered January 31, 2005, convicting him of attempted robbery in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's written waiver of his right to appeal precludes review of his constitutional challenge to the procedure used to adjudicate him as a persistent violent felony offender (*see People v Ramos*, 7 NY3d 737; *People v Callahan*, 80 NY2d 273, 281). In any event, this issue is unpreserved for appellate review as the defendant failed to raise this challenge at sentencing (*see People v Daniels*, 5 NY3d 738, 740, *cert denied* 126 S Ct 573; *People v Rosen*, 96 NY2d 329, 335, *cert denied* 534 US 899; *People v Singh*, 35 AD3d 317; *People v Thompson*, 33 AD3d 825; *People v Rivera*, 31 AD3d 790).

The defendant's waiver also precludes review of his contention that he was denied the effective assistance of trial counsel in the context of his adjudication as a persistent violent felony

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offender inasmuch as the defendant is not claiming that his plea was involuntarily obtained (*see People v Porter*, 268 AD2d 603).

MASTRO, J.P., RITTER, SKELOS, CARNI and McCARTHY, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court