

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

D14518  
Y/cb

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Submitted - February 9, 2007

STEPHEN G. CRANE, J.P.  
ANITA R. FLORIO  
STEVEN W. FISHER  
THOMAS A. DICKERSON, JJ.

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2006-03408

DECISION & ORDER

The People, etc., respondent,  
v Michael Dixon, appellant.

(Ind. No. 2008A-05)

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Mark Diamond, New York, N.Y., for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Michael J. Miller of counsel),  
for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Suffolk County (Mullen, J.), rendered February 28, 2006, convicting him of attempted criminal possession of a weapon in the third degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant pleaded guilty under the fifth count of the indictment to attempted criminal possession of a weapon in the third degree as a lesser-included offense of criminal possession of a weapon in the third degree (Penal Law § 110.00, former § 265.02[4]). Contrary to the defendant's contentions, the crime to which he pleaded guilty was a violent felony offense (*see* Penal Law § 70.02[1][d]), and he was thus correctly subjected to a determinate prison term (*see* Penal Law

§ 70.02[2][c]), as well as to a term of post-release supervision (*see* Penal Law § 70.45[2][e]), as subsequently reduced following his CPL 440.20 motion.

CRANE, J.P., FLORIO, FISHER and DICKERSON, 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