

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

D14734  
W/cb

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Submitted - March 9, 2007

REINALDO E. RIVERA, J.P.  
MARK C. DILLON  
DANIEL D. ANGIOLILLO  
THOMAS A. DICKERSON, JJ.

2004-01130

DECISION & ORDER

The People, etc., respondent,  
v Eddie Sanjurjo, appellant.

(Ind. No. 69/03)

Lynn W. L. Fahey, New York, N.Y. (Jonathan M. Kratter of counsel), for appellant.

Daniel M. Donovan, Jr., District Attorney, Staten Island, N.Y. (Karen F. McGee and Anne Crick of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Richmond County (Rooney, J.), rendered January 12, 2004, convicting him of criminal possession of a controlled substance in the third degree and criminal possession of marihuana in the fifth degree, upon a jury verdict, and imposing sentence. The appeal brings up for review the denial, after a hearing, of that branch of the defendant's omnibus motion which was to suppress physical evidence.

ORDERED that the judgment is affirmed.

At trial, defense counsel argued that the trial testimony of a detective, who had been the sole witness to testify at the suppression hearing, contradicted his earlier testimony regarding the circumstances of the defendant's arrest, and moved to reopen the suppression hearing on that basis. The Supreme Court properly denied that motion. Any discrepancies in the witness's testimony were minor and did not undermine either the witness's credibility or the Supreme Court's finding that the arrest, and the subsequent search incident to the arrest, were lawful (*see People v Clark*, 88 NY2d

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552, 554-56; *People v March*, 271 AD2d 700, 701; *People v Mack*, 224 AD2d 447, 448; cf. *People v Kuberka*, 215 AD2d 592, 593; *People v Perez*, 104 AD2d 454, 456).

RIVERA, J.P., DILLON, ANGIOLILLO and DICKERSON, JJ., concur.

ENTER:

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

James Edward Pelzer  
Clerk of the Court