

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

D15236  
W/cb

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

Submitted - April 16, 2007

ROBERT W. SCHMIDT, J.P.  
GLORIA GOLDSTEIN  
DANIEL D. ANGIOLILLO  
WILLIAM E. McCARTHY, JJ.

---

2005-04765

DECISION & ORDER

The People, etc., respondent,  
v Jimmy Vasquez, appellant.

(Ind. No. 1632/04)

---

Lynn W. L. Fahey, New York, N.Y. (Winston McIntosh of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano and Nicoletta J. Caferri of counsel; Lorrie A. Zinno on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Erlbaum, J.), rendered May 10, 2005, convicting him of attempted assault in the first degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant executed a written waiver of his right to appeal and responded on the record to the Supreme Court's further advisement as to the nature and scope of the waiver with an acknowledgment that he was knowingly and voluntarily waiving his right to appeal. The defendant's waiver of the right to appeal was valid and effective (*see People v Lopez*, 6 NY3d 248). Accordingly, his claim that his sentence was excessive cannot be reviewed on this appeal.

May 22, 2007

PEOPLE v VASQUEZ, JIMMY

Page 1.

The defendant's remaining contention is not preserved for appellate review (*see* CPL 470.05[2]; *People v Nieves*, 2 NY3d 310).

SCHMIDT, J.P., GOLDSTEIN, ANGIOLILLO 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