

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

D16325  
O/hu

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

Submitted - September 6, 2007

A. GAIL PRUDENTI, P.J.  
FRED T. SANTUCCI  
STEVEN W. FISHER  
DANIEL D. ANGIOLILLO, JJ.

---

2005-01738

DECISION & ORDER

The People, etc., respondent,  
v Collin Marshall, appellant.

(Ind. No. 2333/03)

---

Steven Banks, New York, N.Y. (Laura Lieberman Cohen of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano,  
Jeannette Lifschitz, and Jennifer Etkin of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Buchter, J.), rendered February 15, 2005, convicting him of grand larceny in the fourth degree and criminal possession of stolen property in the fourth degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The trial court properly declined to submit to the jury the charges of petit larceny and criminal possession of stolen property in the fifth degree as lesser-included offenses since there was no reasonable view of the evidence that the defendant committed the lesser offenses without having committed the greater offenses (*see* CPL 300.50[1]; *People v Glover*, 57 NY2d 61, 63; *People v Scarborough*, 49 NY2d 364, 369, 371, 373; *People v Carter*, 36 AD3d 624, *lv denied* 8 NY3d 983; *People v Miller*, 156 AD2d 265).

September 25, 2007

Page 1.

PEOPLE v MARSHALL, COLLIN

The defendant's challenges to the prosecutor's summation comments are unpreserved for appellate review (*see* CPLR 470.05[2]; *People v Balls*, 69 NY2d 641) and, in any event, are without merit (*see People v Negron*, 41 AD3d 865; *People v Carter*, 36 AD3d 624, *supra*; *see also, People v Crimmins*, 36 NY2d 230).

PRUDENTI, P.J., SANTUCCI, FISHER and ANGIOLILLO, 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