

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

D16643
C/cb

_____AD3d_____

Submitted - October 1, 2007

HOWARD MILLER, J.P.
GLORIA GOLDSTEIN
PETER B. SKELOS
RUTH C. BALKIN, JJ.

2004-05801

DECISION & ORDER

The People, etc., respondent,
v James Washington, appellant.

(Ind. No. 3994/01)

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

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano,
Nicoletta J. Caferra, and Laura Ross of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County
(Rotker, J.), rendered June 17, 2004, convicting him of manslaughter in the first degree and criminal
possession of a weapon in the third degree, after a nonjury trial, and imposing sentence.

ORDERED that the judgment is affirmed.

Where a defendant charged with a homicide relies on the justification defense,
evidence of a decedent's prior specific criminal acts of violence, of which the defendant had
knowledge, are admissible provided that the acts were reasonably related to the crime with which the
defendant was charged (*see People v Reynoso*, 73 NY2d 816, 818; *People v Miller*, 39 NY2d 543,
551; *People v Fore*, 33 AD3d 932, 932-933; *People v Santiago*, 211 AD2d 734). Here, the trial
court providently exercised its discretion in limiting the evidence of the decedent's prior specific
criminal acts of violence (*see People v Miller*, 39 NY2d at 551-552; *People v Fore*, 33 AD3d at 933;
People v Santiago, 211 AD2d at 734-735; *People v Dupigny*, 156 AD2d 709). Moreover, the
excluded evidence would have been merely cumulative (*see People v Ross*, 197 AD2d 713, 714).

October 23, 2007

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The defendant's remaining contentions are without merit.

MILLER, J.P., GOLDSTEIN, SKELOS and BALKIN, 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