

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

D16825
W/kmg

_____AD3d_____

Submitted - October 16, 2007

HOWARD MILLER, J.P.
DAVID S. RITTER
FRED T. SANTUCCI
RUTH C. BALKIN, JJ.

2006-07047

DECISION & ORDER

The People, etc., respondent,
v Michael M. Buie, appellant.

(Ind. No. 6283/05)

Steven Banks, New York, N.Y. (Katheryne M. Martone of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Rhea Grob of counsel; Brendan M. Price on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Reichbach, J.), rendered June 28, 2006, convicting him of attempted murder in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

Since the defendant withdrew all motions as part of his plea agreement, he cannot now contend that the hearing court erred by denying that branch of his omnibus motion which was to suppress identification testimony (*see People v Lopez*, 6 NY3d 248; *People v Callahan*, 80 NY2d 273; *People v Robinson*, 13 AD3d 398; *People v Sloane*, 13 AD3d 400).

The sentence imposed, which was part of a negotiated plea agreement, was not

November 7, 2007

Page 1.

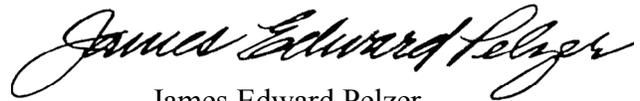
PEOPLE v BUIE, MICHAEL M.

excessive (*see People v Domin*, 13 AD3d 391; *People v Suitte*, 90 AD2d 80).

Contrary to the People's contention, the defendant did not effectively waive his right to appeal (*see People v Hurd*, _____AD3d_____ [2d Dept, Oct. 9, 2007]).

MILLER, J.P., RITTER, SANTUCCI and BALKIN, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer
Clerk of the Court