

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

D16852  
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Submitted - October 18, 2007

REINALDO E. RIVERA, J.P.  
PETER B. SKELOS  
STEVEN W. FISHER  
DANIEL D. ANGIOLILLO, JJ.

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2006-01843

DECISION & ORDER

The People, etc., respondent,  
v Jameek Berry, appellant.

(Ind. No. 965/05)

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Joseph F. Kilada, Garden City, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Ilisa T. Fleischer and Lauren Del  
Giorno of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (La  
Pera, J.), rendered February 6, 2006, convicting him of criminal sexual act in the third degree (two  
counts) and sexual misconduct (two counts), upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the County Court failed to ascertain his competency  
to stand trial is without merit. The court ordered a competency examination pursuant to CPL  
730.30(1), and two psychologists found the defendant fit to stand trial. Relying on the report of the  
pretrial examination conducted less than two months before the trial began, as well as on its own  
observations of, and interactions with, the defendant, the court providently exercised its discretion  
in determining that the defendant was fit to proceed, and was not required, under the circumstances  
presented, to hold a hearing (*see* CPL 730.30[2]; *People v Tortorici*, 92 NY2d 757, 766, *cert denied*

November 13, 2007

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528 US 834) or to order an additional competency examination (*see People v Jones*, 25 AD3d 809, 810; *People v Felix*, 2 AD3d 535, 536; *People v Fahrn*, 300 AD2d 599).

RIVERA, J.P., SKELOS, 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