

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

D17482
C/hu

_____AD3d_____

Argued - December 6, 2007

WILLIAM F. MASTRO, J.P.
STEVEN W. FISHER
EDWARD D. CARNI
WILLIAM E. McCARTHY, JJ.

2006-01413

DECISION & ORDER

The People, etc., respondent,
v Calvin Smalls, appellant.

(Ind. No. 50/05)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Sholom J. Twersky, and Daniel P. Murphy of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (McKay, J.), rendered January 18, 2006, convicting him of criminal possession of a weapon in the third degree, upon a jury verdict, and imposing sentence. The appeal brings up for review the denial, after a hearing, of that branch of the defendant's omnibus motion which was to suppress physical evidence.

ORDERED that the judgment is affirmed.

The defendant's contention that a gun should have been suppressed because he allegedly was subjected to an unreasonable search and detention is without merit (*see People v Chestnut*, 51 NY2d 14, 22-23, *cert denied* 449 US 1018; *People v Winchester*, 14 AD3d 939, 940-941; *People v Bethea*, 239 AD2d 510; *Matter of Anthony S.*, 181 AD2d 682).

The defendant's remaining contentions are without merit (*see People v Smith*, 4 AD3d 378, 379; *People v McClary*, 197 AD2d 640, 641; *People v Foster*, 118 AD2d 654; *People v Jones*, 106 AD2d 585).

MASTRO, J.P., FISHER, CARNI and McCARTHY, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style with a large initial "J".

James Edward Pelzer
Clerk of the Court