

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

D17728  
G/kmg

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Argued - December 6, 2007

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

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2006-06161

DECISION & ORDER

The People, etc., respondent,  
v Jason Cuebas, appellant.

(Ind. No. 8804/99)

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Steven Banks, New York, N.Y. (David Crow, Matthew S. Fitzwater, and Lindsay M. Manning of counsel), for appellant.

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

Appeal by the defendant from so much of an order of the Supreme Court, Kings County (Barros, J.), entered May 26, 2006, as denied his application to be resentenced pursuant to Chapter 643, section 1 of the Laws of 2005.

ORDERED that the order is affirmed insofar as appealed from.

In February 2001, the defendant was convicted, inter alia, of criminal possession of a controlled substance in the second degree, a class A-II felony offense, upon a plea of guilty, and was sentenced to an indeterminate term of nine years to life imprisonment. In January 2006, the defendant petitioned for resentencing pursuant to a then newly-enacted statute (*see* L 2005, ch 643), which extended to class A-II felony offenders the right, previously afforded only to class A-I felony offenders (*see* L 2004, ch 738, § 23), to petition for resentencing. While the petition was pending, the defendant was released to the custody of the New York State Division of Parole. The Supreme Court denied his petition for resentencing.

January 22, 2008

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Contrary to the defendant's contentions, under the circumstances presented, we see no reason to disturb the Supreme Court's determination (*see* L 2005, ch 643).

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.

James Edward Pelzer  
Clerk of the Court