

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

D17850  
O/kmg

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - December 18, 2007

REINALDO E. RIVERA, J.P.  
DAVID S. RITTER  
MARK C. DILLON  
EDWARD D. CARNI, JJ.

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2005-02621

DECISION & ORDER

The People, etc., respondent,  
v Jamel Smith, a/k/a Raheem Hampton, appellant.

(Ind. No. 1541/04)

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Lynn W. L. Fahey, New York, N.Y. (Denise A. Corsi and William Kastin of counsel),  
for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Thomas M.  
Ross, and Judd B. Grossman of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (M.  
Brennan, J.), rendered March 2, 2005, convicting him of robbery in the first degree, criminal  
possession of stolen property in the fifth degree, and attempted assault in the third degree, upon a jury  
verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, the subject statements made by a prospective  
juror did not rise to the level of actual bias or otherwise indicate that she would be unable to render  
an impartial verdict. Thus, there was no basis for the Supreme Court to administer an expurgatory  
oath or sustain the defendant's challenge for cause (*see People v Ross*, 12 AD3d 463; *People v*  
*Rudolph*, 266 AD2d 568, 568-569; *People v Archer*, 210 AD2d 241, 241-242; *cf. People v Brown*,  
111 AD2d 248).

The defendant's allegations of improper bolstering and accomplice identification are  
unpreserved for appellate review (*see CPL 470.05[2]*; *People v West*, 56 NY2d 662, 663; *People v*

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*Samuels*, 22 AD3d 507, 508), and we decline to reach them in our interest of justice jurisdiction. Further, the defendant was not denied the effective assistance of counsel under the circumstances presented (*see People v Taylor*, 1 NY3d 174, 176; *People v Benevento*, 91 NY2d 708, 713).

RIVERA, J.P., RITTER, DILLON and CARNI, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court