

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

D18559
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_____AD3d_____

Submitted - February 22, 2008

WILLIAM F. MASTRO, J.P.
THOMAS A. DICKERSON
ARIEL E. BELEN
CHERYL E. CHAMBERS, JJ.

2003-03228

DECISION & ORDER

The People, etc., respondent,
v Eric Williams, appellant.

(Ind No. 1289-02)

Bruce A. Barket, P.C., Garden City, N.Y., for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Michael Blakey of counsel),
for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Suffolk County (Mullen, J.) rendered March 20, 2003, convicting him of murder in the second degree, assault in the first degree (two counts), criminal use of a firearm in the first degree, and criminal possession of a weapon in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that he was denied his right to be present at an adjourned proceeding date is without merit because the proceeding at issue involved only questions of law or procedure (*see People v Roman*, 88 NY2d 18, 27; *People v Diaz*, 30 AD3d 436, 437; *People v Rolle*, 4 AD3d 542, 543).

Testimony of a witness regarding the circumstances under which the defendant confessed his guilt to him with respect to the instant offenses was properly admitted as background information necessary to complete the narrative regarding the defendant's confession and explain why he confessed (*see People v Philips*, 30 AD3d 618, 619; *People v Gordon*, 308 AD2d 461, 461).

April 1, 2008

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While the better course would have been for the prosecutor to have obtained a ruling from the trial court regarding the admissibility of all testimony she sought to elicit from the People's witnesses regarding the defendant's prior uncharged crimes before such evidence was introduced into the case (*see People v Ventimiglia*, 52 NY2d 350), any resultant error was harmless (*see People v Crimmins*, 36 NY2d 230; *People v McCarthy*, 293 AD2d 490, 491-492).

The defendant's remaining contentions are without merit.

MASTRO, J.P., DICKERSON, BELEN and CHAMBERS, 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