

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

D19026  
Y/hu

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

Argued - April 3, 2008

HOWARD MILLER, J.P.  
MARK C. DILLON  
WILLIAM E. McCARTHY  
CHERYL E. CHAMBERS, JJ.

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2005-08366

DECISION & ORDER

The People, etc., respondent,  
v Josh Brown, appellant.

(Ind. No. 2349/04)

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Lynn W. L. Fahey, New York, N.Y. (Katherine R. Schaefer of counsel), for appellant,  
and appellant pro se.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Ellen  
C. Abbot, and Michael J. Balch of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Kron,  
J.), rendered August 18, 2005, convicting him of robbery in the first degree, criminal possession of  
a weapon in the fourth degree, and criminal possession of stolen property in the fifth degree, upon  
a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the evidence was legally insufficient to support his  
conviction for robbery in the first degree is unpreserved for appellate review (*see* CPL 470.05[2];  
Penal Law § 160.15; *People v Gray*, 86 NY2d 10, 19). In any event, viewing the evidence in the light  
most favorable to the prosecution (*see People v Contes*, 60 NY2d 620, 621), we find that it was  
legally sufficient to establish the defendant's guilt beyond a reasonable doubt (*see People v Nieves*,  
37 AD3d 277; *People v Trotter*, 24 AD3d 127; *cf. People v Quinn*, 186 AD2d 691, 692).

Contrary to the defendant's contention, he was not deprived of the effective assistance  
of counsel (*see People v Flores*, 84 NY2d 184, 187, *cert denied* 531 US 1029; *People v Williams*,

May 6, 2008

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15 AD3d 244).

The remaining contentions raised in the defendant's main brief and in his supplemental pro se brief, to the extent that they are not based on matters dehors the record and are thus reviewable on direct appeal, are without merit.

MILLER, J.P., DILLON, McCARTHY and CHAMBERS, 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