

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

D19147  
X/kmg

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

Submitted - April 9, 2008

STEVEN W. FISHER, J.P.  
ANITA R. FLORIO  
DANIEL D. ANGIOLILLO  
THOMAS A. DICKERSON  
ARIEL E. BELEN, JJ.

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2006-10265  
2006-10266

DECISION & ORDER

The People, etc., respondent,  
v Rafael Vega, appellant.

(Ind. Nos. 7244/00, 7853/01)

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Lynn W. L. Fahey, New York, N.Y., for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Jodi L. Mandel of counsel; Sabrina Thanse on the brief), for respondent.

Appeals by the defendant from two judgments of the Supreme Court, Kings County (Brennan, J.), both rendered October 23, 2006, convicting him of burglary in the second degree and petit larceny, upon his pleas of guilty, under Kings County Indictment Nos. 7244/00 and 7853/01, and imposing sentences.

ORDERED that the judgments are affirmed.

Contrary to the defendant's contention, the sentencing minutes reveal that the court exercised discretion at sentencing (*cf. People v Farrar*, 52 NY2d 302, 306; *People v Tomlinson*, 162 AD2d 563). Furthermore, the sentence imposed under Indictment No. 7853/01 was not excessive (*see People v Suitte*, 90 AD2d 80).

The defendant's valid waiver of his right to appeal from the judgment rendered under Indictment No. 7244/00 forecloses review of his claim that the sentence imposed under that

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indictment was excessive (*see People v Nolcox*, 40 AD3d 1128; *People v Oquendo*, 38 AD3d 686).

FISHER, J.P., FLORIO, ANGIOLILLO, DICKERSON and BELEN, 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