

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

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_____AD3d_____

Argued - April 24, 2008

A. GAIL PRUDENTI, P.J.
WILLIAM F. MASTRO
HOWARD MILLER
EDWARD D. CARNI, JJ.

2006-03736

DECISION & ORDER

The People, etc., respondent,
v Kenyan Thompson, appellant.

(Ind. No. 2279/05)

Steven Banks, New York, N.Y. (David A. Crow of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Victor Barall of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Heffernan, J.), rendered March 29, 2006, convicting him of criminal sale of a controlled substance in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant contends that the trial court's ruling on the People's reverse-*Batson* challenge (*see Batson v Kentucky*, 476 US 79) was in error. We disagree. The prosecutor raised a reverse-*Batson* challenge, and the trial court determined that with respect to one peremptory strike, defense counsel's proffered explanation was pretextual (*see People v Payne*, 88 NY2d 172, 181; *People v Allen*, 86 NY2d 101, 104). The trial court is in the best position to assess the credibility of counsel's explanations (*see Hernandez v New York*, 500 US 352, 364; *People v Jeffreys*, 258 AD2d 474, 475). We discern no basis in the record to disturb the trial court's credibility assessment and determination (*see People v Chapman*, 295 AD2d 359; *People v Grier*, 261 AD2d 555; *People v Garrastazu*, 238 AD2d 354).

May 20, 2008

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The defendant's remaining contentions are without merit.

PRUDENTI, P.J., MASTRO, MILLER and CARNI, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer
Clerk of the Court