

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

D19538
G/kmg

_____AD3d_____

Argued - May 13, 2008

STEVEN W. FISHER, J.P.
FRED T. SANTUCCI
DANIEL D. ANGIOLILLO
WILLIAM E. McCARTHY, JJ.

2006-03717

DECISION & ORDER

The People, etc., respondent,
v Rashawn Cheeseboro, appellant.

(Ind. No. 844/05)

Steven Banks, New York, N.Y. (Ellen Dille of counsel), for appellant, and appellant pro se.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Howard B. Goodman of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Chambers, J.), rendered April 6, 2006, convicting him of murder in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the trial court's charge with respect to the justification defense was improper because it did not include specific language on excessive force is unpreserved for appellate review since he failed to object to the charge on this ground, and failed to request supplemental instructions (*see* CPL 470.05[2]; *People v Moultrie*, 6 AD3d 730). In any event, the trial court's instructions adequately conveyed the appropriate standard (*see People v Strong*, 256 AD2d 427; *People v Martinez*, 243 AD2d 732). Moreover, the defendant was not denied the effective assistance of counsel by his attorney's failure to object to the charge (*see People v Baldi*, 54 NY2d 137; *People v Seaton*, 45 AD3d 875, *lv denied* 10 NY3d 816).

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The defendant's remaining contentions, raised in his supplemental pro se brief, are unpreserved for appellate review and, in any event, are without merit.

FISHER, J.P., SANTUCCI, ANGIOLILLO and McCARTHY, 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