

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

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Submitted - April 4, 2008

ROBERT A. LIFSON, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
JOHN M. LEVENTHAL, JJ.

2006-05918

DECISION & ORDER

The People, etc., respondent,
v Conroy Smith, appellant.

(Ind. No. 05-01056)

Stephen J. Pittari, White Plains, N.Y. (Jacqueline F. Oliva of counsel), for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Laurie Sapakoff, Richard Longworth Hecht, and Anthony J. Servino of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Westchester County (Bellantoni, J.), rendered June 14, 2006, convicting him of assault in the first degree, criminal possession of a weapon in the second degree, criminal possession of a weapon in the third degree (two counts), and reckless endangerment in the first degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is reversed, on the law, and a new trial is ordered.

The defendant is entitled to reversal and a new trial based upon the trial court's error in denying his challenge for cause to a prospective juror. The juror indicated during voir dire that he believed he was present at a press conference when the defendant's arrest was announced, he knew the District Attorney of Westchester County socially, he was personal friends with the Assistant District Attorney who had been assigned to the case before trial, and he might know some of the

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police officers who would be testifying for the People. Trial courts should lean toward disqualifying prospective jurors of dubious impartiality, and considering all of these circumstances, the defendant's challenge for cause as to this juror should have been granted (*see People v Rentz*, 67 NY2d 829; *People v Branch*, 46 NY2d 645; *People v Maldonado*, 278 AD2d 513; *People v Clark*, 125 AD2d 868).

The defendant's remaining contentions have been rendered academic or are without merit.

LIFSON, J.P., COVELLO, ANGIOLILLO and LEVENTHAL, 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