

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

D20704
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_____AD3d_____

Submitted - September 22, 2008

PETER B. SKELOS, J.P.
STEVEN W. FISHER
THOMAS A. DICKERSON
ARIEL E. BELEN, JJ.

2007-02823

DECISION & ORDER

The People, etc., respondent,
v Patrick DeJean, appellant.

(Ind. No. 785/06)

Marianne Karas, Armonk, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Judith R. Sternberg and Barbara Kornblau of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Nassau County (Berkowitz, J.), rendered March 12, 2007, convicting him of manslaughter in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Under the circumstances of this case, the trial court did not improvidently exercise its discretion in limiting defense counsel's efforts to show the deceased's propensity for reckless driving (*cf. People v Santiago*, 211 AD2d 734).

The trial court properly admitted into evidence photographs of the decedent's body at the crime scene. The photographs were corroborative of the testimony of the prosecution witnesses and suggested that the defendant had the requisite intent when his car crashed into the decedent's motorcycle. Thus, we cannot conclude that the photographs had no effect other than to "arouse the emotions of the jury and to prejudice the defendant" (*People v Poblner*, 32 NY2d 356, 370, *cert denied* 416 US 905; *see People v Wood*, 79 NY2d 958; *People v Stevens*, 76 NY2d 833; *People v Rhodes*, 49 AD3d 668).

October 14, 2008

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The defendant's remaining contentions either are without merit or do not require reversal.

SKELOS, J.P., FISHER, 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.

James Edward Pelzer
Clerk of the Court