

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

D21539  
W/hu

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Argued - December 1, 2008

PETER B. SKELOS, J.P.  
FRED T. SANTUCCI  
WILLIAM E. McCARTHY  
THOMAS A. DICKERSON, JJ.

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2008-00681

DECISION & ORDER

The People, etc., appellant,  
v James Grier, respondent.

(Ind. No. 2326/06)

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Richard A. Brown, District Attorney, Kew Gardens, N.Y. (Gary Fidel and Edward D. Saslaw of counsel), for appellant.

Stuart J. Grossman, Forest Hills, N.Y., for respondent.

Appeal by the People from an order of the Supreme Court, Queens County (Lewis, J.), dated November 28, 2007, which granted that branch of the defendant's motion which was for leave to reargue his motion to dismiss the indictment pursuant to CPL 190.50 and 210.20(1)(c), which had been determined in an order dated April 26, 2007, and, upon reargument, granted the original motion and dismissed the indictment, with leave to the People to resubmit the matter to the grand jury.

ORDERED that the order is reversed, on the law, that branch of the defendant's motion which was for leave to reargue his motion to dismiss the indictment pursuant to CPL 190.50 and CPL 210.20(1)(c) is denied, the indictment is reinstated, and the matter is remitted to the Supreme Court, Queens County, for further proceedings on the indictment.

The defendant moved, inter alia, for leave to reargue his prior motion to dismiss the indictment pursuant to CPL 190.50 and CPL 210.20(1)(c). In the order appealed from, the Supreme Court granted that branch of the defendant's motion which was for leave to reargue and, upon reargument, granted the defendant's original motion to dismiss the indictment pursuant to CPL 190.50 and CPL 210.20(1)(c). We reverse.

December 16, 2008

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That branch of the defendant's motion which was for leave to reargue his motion to dismiss the indictment pursuant to CPL 210.20(1)(c) was untimely made, and thus should have been denied (*see* CPL 255.20[1]; *People v Dean*, 74 NY2d 643; *People v Lopez*, 235 AD2d 496, 497; *People v Killings*, 191 AD2d 586, 587).

SKELOS, J.P., SANTUCCI, McCARTHY and DICKERSON, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court