

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

D22009
G/kmg

_____AD3d_____

Submitted - January 6, 2009

STEVEN W. FISHER, J.P.
HOWARD MILLER
EDWARD D. CARNI
RUTH C. BALKIN, JJ.

2007-04880

DECISION & ORDER

The People, etc., respondent,
v Eugene Nelson, appellant.

(Ind. No. 6802/06)

Lynn W. L. Fahey, New York, N.Y. (David P. Greenberg of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Jodi L. Mandel, and Steven A. Mann of counsel), for respondent.

Appeal by the defendant, as limited by his brief, from so much of a sentence of the Supreme Court, Kings County (Gary, J.), imposed April 26, 2007, as, upon his conviction of criminal possession of a weapon in the third degree, upon his plea of guilty, directed him to register with the New York City Police Department as a gun offender pursuant to the Gun Offender Registration Act (*see* Administrative Code of City of NY § 10-601 *et seq.*) and comply with the further requirements of the Gun Offender Registration Act, in effect, as a condition of his probation.

ORDERED that the sentence is reversed insofar as appealed from, on the law, and that portion of the sentence which directed the defendant to register with the New York City Police Department as a gun offender pursuant to the Gun Offender Registration Act and comply with the further requirements of the Gun Offender Registration Act, in effect, as a condition of his probation, is vacated.

On March 24, 2007, New York City's Gun Offender Registration Act (Administrative Code of City of NY § 10-601 *et seq.*; hereinafter GORA) became effective. GORA imposes certain obligations upon persons who, "after the effective date of [the] act," are convicted, inter alia, of criminal possession of a weapon in the third degree under subdivision four of section 265.02 of the

Penal Law. As the defendant contends and the People correctly concede, GORA does not apply to the defendant because his conviction predated GORA's effective date (*see People v Ventura*, _____AD3d_____, 2009 NY Slip Op 00573 [2d Dept 2009]; *People v Douglas*, 55 AD3d 750). Accordingly, we reverse the sentence insofar as appealed from and vacate the condition of probation that requires the defendant to register with the New York City Police Department as a gun offender and otherwise comply with GORA.

FISHER, J.P., MILLER, CARNI and BALKIN, 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