

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

D22032
O/kmg

_____AD3d_____

Argued - January 13, 2009

REINALDO E. RIVERA, J.P.
HOWARD MILLER
EDWARD D. CARNI
WILLIAM E. McCARTHY, JJ.

2006-04832

DECISION & ORDER

The People, etc., respondent,
v George Onyeabor, appellant.

(Ind. No. 6879/04)

Steven Banks, New York, N.Y. (Lawrence T. Hausman of counsel), and White & Case, LLP, New York, N.Y. (Jenna Z. Nicenko, Luisa H. Cetina, R. Gregory Parker, and Nicholas E. Surmacz of counsel), for appellant (one brief filed).

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

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Leventhal, J.), rendered April 7, 2006, convicting him of attempted assault in the second degree and assault in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the Supreme Court erred in its questioning of a defense witness as to a prior conviction is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Charleston*, 56 NY2d 886, 887; *People v Negron*, 41 AD3d 865, 865). In any event, this contention is without merit. The court did not take an adversarial position or act in a manner which gave the jury the impression that the court had an opinion as to the witness's credibility (*see People v Moulton*, 43 NY2d 944, 945; *cf. People v Melendez*, 227 AD2d 646).

February 10, 2009

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The defendant's remaining contentions are without merit.

RIVERA, J.P., MILLER, CARNI 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