

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

D22096  
Y/kmg

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - January 5, 2009

ROBERT A. SPOLZINO, J.P.  
FRED T. SANTUCCI  
JOHN M. LEVENTHAL  
CHERYL E. CHAMBERS, JJ.

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2007-03159

DECISION & ORDER

The People, etc., respondent,  
v Lou Quattlebaum, appellant.

(Ind. No. 6117/06)

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Lynn W. L. Fahey, New York, N.Y. (Barry Stendig of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Thomas S. Burka of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (McKay, J.), rendered March 16, 2007, convicting him of criminal possession of a weapon in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

During jury selection, the defendant objected, pursuant to *Batson v Kentucky* (476 US 79), to the prosecution's exercise of two peremptory challenges. The defendant contends that the court erred in allowing one of those challenges. The prosecution satisfied its obligation to provide facially race-neutral reasons for rejecting the juror (*see People v Payne*, 88 NY2d 172, 181; *People v Allen*, 86 NY2d 101, 109-110). Thereafter, the burden shifted to the defendant to demonstrate that the People's explanation was pretextual (*see People v Allen*, 86 NY2d at 111; *People v McCargo*, 226 AD2d 480, 481).

The defendant did not demonstrate that the race-neutral reasons proffered by the prosecutor were pretextual, but rather, simply reiterated that the number of black venirepersons challenged was sufficient to establish a prima facie case of purposeful discrimination. Accordingly,

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the defendant failed to meet his burden (*see People v Bolton*, 239 AD2d 511).

The defendant's remaining contentions are without merit.

SPOLZINO, J.P., SANTUCCI, LEVENTHAL and CHAMBERS, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer  
Clerk of the Court