

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

D22285
Y/hu

_____AD3d_____

Argued - January 22, 2009

STEVEN W. FISHER, J.P.
MARK C. DILLON
ARIEL E. BELEN
CHERYL E. CHAMBERS, JJ.

2006-10975

DECISION & ORDER

The People, etc., respondent,
v Phillip Dyer, appellant.

(Ind. No. 8725/05)

Guy Oksenhendler, New York, N.Y., for appellant.

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

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Holdman, J.), rendered November 9, 2006, convicting him of criminal possession of a weapon in the third degree, upon a jury verdict, and sentencing him to a determinate term of 6 years imprisonment, followed by 3 years of postrelease supervision.

ORDERED that the judgment is modified, as a matter of discretion in the interest of justice, by reducing the determinate term of imprisonment of 6 years to a determinate term of imprisonment of 3 years, and by reducing the period of postrelease supervision of 3 years to a period of postrelease supervision of 1½ years.

Based upon our review of the circumstances presented in this case, including the defendant's youth, lack of criminal history, family background, and community involvement, as well as the People's recommendation to the sentencing court that the defendant receive a more lenient sentence, it is appropriate to exercise our discretion in the interest of justice to modify the sentence

March 3, 2009

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imposed by reducing the determinate term of imprisonment of 6 years to a determinate term of imprisonment of 3 years, and by reducing the period of postrelease supervision of 3 years to a period of postrelease supervision of 1½ years (*see People v Suitte*, 90 AD2d 80).

FISHER, J.P., DILLON, BELEN and CHAMBERS, 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