

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

D22382  
C/prt

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

Submitted - January 29, 2009

REINALDO E. RIVERA, J.P.  
STEVEN W. FISHER  
JOHN M. LEVENTHAL  
CHERYL E. CHAMBERS, JJ.

2007-09469

DECISION & ORDER

The People, etc., respondent,  
v Eric Carvey, appellant.

(Ind. No. 2207/06)

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Jason Bassett, Central Islip, N.Y., for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Marion M. Tang of counsel),  
for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Braslow, J.), rendered September 26, 2007, convicting him of criminal possession of a controlled substance in the fifth degree, after a nonjury trial, and imposing sentence. The appeal brings up for review the denial, after a hearing, of those branches of the defendant's omnibus motion which were to suppress physical evidence and his statements to law enforcement officials.

ORDERED that the judgment is affirmed.

The hearing court properly denied that branch of the defendant's omnibus motion which was to suppress his statements to law enforcement officials since a reasonable person, innocent of any crime, would not have believed that he was in custody at the time the defendant made his statements (*see People v Ballard*, 16 AD3d 697, 698).

The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

March 10, 2009

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The defendant's remaining contention is without merit.

RIVERA, J.P., FISHER, 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 initial "J".

James Edward Pelzer  
Clerk of the Court