

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

D22576
O/hu

_____AD3d_____

Submitted - February 26, 2009

PETER B. SKELOS, J.P.
STEVEN W. FISHER
ANITA R. FLORIO
JOHN M. LEVENTHAL, JJ.

2006-08028

DECISION & ORDER

The People, etc., respondent,
v Joe Turner, appellant.

(Ind. No. 2838/02)

Lynn W. L. Fahey, New York, N.Y. (Sarah J. Berger of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano,
Nicoletta J. Caferri, and Rebecca Height of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Cooperman, J.), rendered July 20, 2006, convicting him of robbery in the second degree (two counts), attempted robbery in the first degree, attempted robbery in the second degree (two counts), criminal possession of a weapon in the fourth degree, and unlawful imprisonment in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that he was improperly impeached with a prior inconsistent statement he made while testifying before the grand jury is unpreserved for appellate review (*see People v Gill*, 54 AD3d 965). In any event, the defendant's contention is without merit. Contrary to the defendant's contention, the statements that he made before the grand jury were admissible as prior inconsistent statements (*see People v Wise*, 46 NY2d 321).

March 31, 2009

PEOPLE v TURNER, JOE

Page 1.

The sentence imposed was not excessive (*see People v Ramirez*, 89 NY2d 444; *People v Suitte*, 90 AD2d 80).

The defendant's remaining contentions are without merit.

SKELOS, J.P., FISHER, FLORIO and LEVENTHAL, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court