

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

D22617
W/kmg

_____AD3d_____

Argued - February 20, 2009

WILLIAM F. MASTRO, J.P.
REINALDO E. RIVERA
THOMAS A. DICKERSON
JOHN M. LEVENTHAL, JJ.

2007-05096

DECISION & ORDER

The People, etc., respondent,
v Oscar Pena, appellant.

(Ind. No. 5161/05)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Ruth E. Ross, and Jones Day [Michael J. Fluhr], of counsel), for respondent.

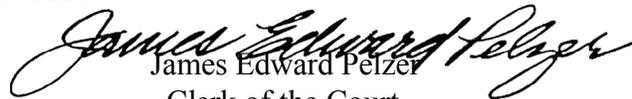
Appeal by the defendant from a judgment of the Supreme Court, Kings County (J. Goldberg, J.), rendered April 17, 2007, convicting him of robbery in the third degree, grand larceny in the fourth degree, and attempted grand larceny in the fourth degree, after a nonjury trial, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, he was not denied the effective assistance of trial counsel. Viewing the evidence, the law, and the circumstances of this case in their totality and as of the time of the representation, we find that the defendant was afforded meaningful representation at trial (*see People v Henry*, 95 NY2d 563, 565; *People v Benevento*, 91 NY2d 708, 712; *People v Baldi*, 54 NY2d 137, 147), and there was no reasonable probability that the result of the trial would have been different in the absence of counsel's purported error (*see Strickland v Washington*, 466 US 668, 694).

MASTRO, J.P., RIVERA, DICKERSON and LEVENTHAL, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

March 31, 2009

PEOPLE v PENA, OSCAR