

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

D23105  
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Submitted - March 31, 2009

HOWARD MILLER, J.P.  
DANIEL D. ANGIOLILLO  
RANDALL T. ENG  
LEONARD B. AUSTIN, JJ.

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2008-03660

DECISION & ORDER

The People, etc., respondent,  
v Rayvon Baker, appellant.

(Ind. No. 3554/07)

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Lynn W. L. Fahey, New York, N.Y. (David P. Greenberg of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Jodi L. Mandel of counsel; Robert Ho on the brief), for respondent.

Appeal by the defendant, as limited by his brief, from so much of a sentence of the Supreme Court, Kings County (Gary, J.), imposed April 8, 2008, as, upon his conviction of criminal possession of a weapon in the second degree, upon his plea of guilty, directed him to register with the New York City Police Department as a gun offender pursuant to the Gun Offender Registration Act (*see* Administrative Code of City of NY § 10-601 *et seq.*) and comply with the further requirements of the Gun Offender Registration Act, in effect, as a condition of his probation.

ORDERED that the sentence is reversed insofar as appealed from, on the law, and that portion of the sentence which directed the defendant to register with the New York City Police Department as a gun offender pursuant to the Gun Offender Registration Act and comply with the further requirements of the Gun Offender Registration Act, in effect, as a condition of his probation, is vacated.

New York City's Gun Offender Registration Act (hereinafter GORA) imposes certain registration and reporting requirements on persons convicted in the courts of the City of New York of a "gun offense" (NYC Local Law No. 29 Int. 362-A, § 1). GORA defines a "gun offender" as:

“any person who is convicted, after the effective date of this act, of a gun offense as defined in subdivision e of this section in a court in the city of New York . . .

“e. ‘Gun offense’ shall mean a conviction of . . . criminal possession of a weapon in the second degree in violation of *subdivision 3* of section 265.03 of the penal law (New York City Admin. Code 10-602(d) & (e))” (emphasis added).

The defendant pleaded guilty to criminal possession of a weapon in the second degree under Penal Law § 265.03(1)(b). As the defendant contends, and the People correctly concede, GORA does not apply to the defendant, inasmuch as he was not convicted of a “gun offense” as defined in the Administrative Code of the City of New York.

MILLER, J.P., ANGIOLILLO, ENG and AUSTIN, 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