

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

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_____AD3d_____

Submitted - March 16, 2009

REINALDO E. RIVERA, J.P.
ROBERT A. SPOLZINO
DANIEL D. ANGIOLILLO
RUTH C. BALKIN, JJ.

2008-03372

DECISION & ORDER

The People, etc., respondent,
v Brandon Jones, appellant.

(Ind. No. 1079/07)

Marianne Karas, Armonk, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Andrea M. DiGregorio and Michael E. Soffer of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (Sullivan, J.), rendered March 28, 2008, convicting him of attempted robbery in the second degree, upon his plea of guilty, and imposing sentence. The appeal brings up for review the denial, after a hearing (LaPera, J.), 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 defendant's contention that the County Court should have suppressed his statements to police and evidence seized from his room as having been obtained from an arrest in violation of *Payton v New York* (445 US 573) is not preserved for appellate review, and we decline to reach it in the exercise of our interest of justice jurisdiction (*see People v Dantze*, 283 AD2d 438; *People v Davis*, 245 AD2d 526).

May 19, 2009

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The defendant's remaining contentions are without merit.

RIVERA, J.P., SPOLZINO, ANGIOLILLO and BALKIN, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court