

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

D23641
W/kmg

_____AD3d_____

Argued - May 21, 2009

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
ARIEL E. BELEN
LEONARD B. AUSTIN, JJ.

2006-05455

DECISION & ORDER

The People, etc., respondent,
v Ronald Prescott, appellant.

(Ind. No. 935/05)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Thomas S. Burka of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Starkey, J.), rendered May 17, 2006, convicting him of murder in the second degree and criminal possession of a weapon in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, he was not deprived of effective assistance of counsel (*see People v Benevento*, 91 NY2d 708, 712). “The record in this case demonstrates that defense counsel effectively cross-examined the People's witnesses, presented an alibi defense, and made competent opening and closing statements which were consistent with that defense” (*People v Pollard*, 220 AD2d 463, 464; *see People v Ryan*, 90 NY2d 822, 823-824; *People v Velez*, 197 AD2d 651, 652; *People v Ortiz*, 174 AD2d 763, 763). Moreover, the “defendant has failed to demonstrate the absence of strategic or other legitimate explanations for counsel's alleged shortcomings” (*People v Taylor*, 1 NY3d 174, 176 [internal quotations omitted]; *see People v Williams*, 59 AD3d 576; *People v Ramjit*, 59 AD3d 466; *People v Demolaire*, 55 AD3d 621, 622; *People v Coleman*, 37 AD3d 489, 490). Accordingly, “[the] defendant has failed to establish that he was denied his constitutional right to effective assistance of counsel” (*People v Ryan*, 90 NY2d 822,

824; *see People v Rivera*, 71 NY2d 705, 708-709).

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

RIVERA, J.P., FLORIO, BELEN and AUSTIN, 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, sweeping initial "J".

James Edward Pelzer
Clerk of the Court