

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

D24070  
W/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - June 19, 2009

WILLIAM F. MASTRO, J.P.  
FRED T. SANTUCCI  
RANDALL T. ENG  
PLUMMER E. LOTT, JJ.

---

2007-02425

DECISION & ORDER

The People, etc., respondent,  
v Sergio David, appellant.

(Ind. No. 5335/05)

---

Pollard & Koenig, New York, N.Y. (James Layton Koenig of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Solomon Neubort, and Bruce Alderman of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Del Giudice, J.), rendered January 31, 2007, convicting him of criminal possession of a weapon in the third degree and unlawful possession of marijuana, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant contends that the verdict convicting him of, inter alia, criminal possession of a weapon in the third degree, was against the weight of the evidence. In fulfilling our responsibility to conduct an independent review of the weight of the evidence (*see* CPLR 470.15[5]; *People v Danielson*, 9 NY3d 342), we nevertheless accord great deference to the jury's opportunity to view the witnesses, hear the testimony, and observe demeanor (*see People v Mateo*, 2 NY3d 383, 410, *cert denied* 542 US 946; *People v Bleakley*, 69 NY2d 490, 495). Upon reviewing the record

September 15, 2009

Page 1.

PEOPLE v DAVID, SERGIO

here, we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

MASTRO, J.P., SANTUCCI, ENG and LOTT, 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