

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

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_____AD3d_____

Argued - April 30, 2009

PETER B. SKELOS, J.P.
STEVEN W. FISHER
ARIEL E. BELEN
PLUMMER E. LOTT, JJ.

2008-01081

DECISION & ORDER

The People, etc., respondent,
v Robert Cabrera, appellant.

(Ind. No. 7095/06)

Steven Banks, New York, N.Y. (Robert Budner of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Morgan J. Dennehy of counsel; Irina Knopp on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Del Giudice, J.), rendered January 29, 2008, convicting him of robbery in the first degree and attempted robbery in the first degree, upon his plea of guilty, and sentencing him, as a second felony offender, to determinate terms of 25 years imprisonment and 15 years imprisonment, respectively, to run concurrently with each other, followed by a period of 5 years of postrelease supervision.

ORDERED that the judgment is modified, as a matter of discretion in the interest of justice, by reducing the term of imprisonment imposed upon the conviction of robbery in the first degree from a determinate term of imprisonment of 25 years to a determinate term of imprisonment of 15 years; as so modified, the judgment is affirmed.

Under the circumstances of this case, the sentence imposed was excessive to the extent indicated herein.

September 8, 2009

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The defendant's remaining contentions are without merit.

SKELOS, J.P., FISHER, BELEN and LOTT, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court