

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

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Argued - December 10, 2009

REINALDO E. RIVERA, J.P.  
JOHN M. LEVENTHAL  
ARIEL E. BELEN  
LEONARD B. AUSTIN, JJ.

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2005-01532

DECISION & ORDER

The People, etc., respondent,  
v Shareef Evans, appellant.

(Ind. No. 1599/01)

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Steven Banks, New York, N.Y. (William B. Carney of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano,  
Nicoletta J. Caferri, Jennifer Hagan, and Sharon Y. Brodt of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Eng J.), rendered January 13, 2005, convicting him of manslaughter in the first degree, after a nonjury trial, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant contends that he was denied the effective assistance of counsel (*see Strickland v Washington*, 466 US 668, 687; *People v Henry*, 95 NY2d 563, 566). To the extent that the defendant's claim of ineffective assistance of counsel involves matter dehors the record, it may not be reviewed on direct appeal (*see People v Dashosh*, 59 AD3d 731, 731-732; *People v Monroe*, 52 AD3d 623). To the extent that the claim may be reviewed, defense counsel provided effective assistance (*see Strickland v Washington*, 466 US at 698-699; *People v Benevento*, 91 NY2d 708, 712-715). The arguments the defendant contends defense counsel should have advanced would not have resulted in the suppression of the defendant's statement (*see People v Hernandez*, 49 AD3d 335, 336; *People v Ladson*, 298 AD2d 314; *People v Richardson*, 202 AD2d 958; *People v Belgenio*, 164 AD2d 865, 866; *People v Perry*, 77 AD2d 269, 273). Counsel's failure to raise the statute of limitations as a defense to the first-degree manslaughter count reflects a legitimate trial strategy of

a reasonably competent attorney (*see People v Turner*, 5 NY3d 476, 483-484; *People v Benevento*, 91 NY2d at 712; *People v Satterfield*, 66 NY2d 796, 799). Viewing the record as a whole (*see People v Benevento*, 91 NY2d at 712; *People v Adelman*, 36 AD3d 926, 928), counsel pursued a viable defense strategy, adequately cross-examined the People's witnesses, and provided a cogent summation. Accordingly, the defendant received the effective assistance of counsel.

RIVERA, J.P., LEVENTHAL, BELEN 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