

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

D25962
W/kmg

_____AD3d_____

Submitted - January 5, 2010

MARK C. DILLON, J.P.
JOSEPH COVELLO
HOWARD MILLER
CHERYL E. CHAMBERS, JJ.

2007-06182

DECISION & ORDER

The People, etc., respondent,
v Lloyd Jefferson, appellant.

(Ind. No. 1414/07)

Law Offices of Anna N. Howell, P.C., Westbury, N.Y., for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Anne E. Oh of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Braslow, J.), rendered June 5, 2007, convicting him of attempted criminal sale of a controlled substance in the third degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

There is no merit to the defendant's contention that Penal Law § 70.45, which, *inter alia*, requires a sentencing court to impose a period of postrelease supervision as part of a determinate sentence, is unconstitutional (*see Apprendi v New Jersey*, 530 US 466; *People v Quinones*, 12 NY3d 116, 122-123, *cert denied* _____US_____, 130 S Ct 104; *People v Thompson*, 83 NY2d 477, 482; *People v Smith*, 54 AD3d 974; *White v Keane*, 969 F2d 1381, 1383). We note that the Attorney General of the State of New York was notified, pursuant to Executive Law § 71, that the defendant was challenging the constitutionality of Penal Law § 70.45, but decided not to intervene.

The defendant's remaining contention regarding postrelease supervision is without merit.

DILLON, J.P., COVELLO, MILLER and CHAMBERS, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court