

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

D27328  
G/kmg

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

Submitted - April 16, 2010

WILLIAM F. MASTRO, J.P.  
JOSEPH COVELLO  
RANDALL T. ENG  
ARIEL E. BELEN, JJ.

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2009-04064

DECISION & ORDER

The People, etc., respondent,  
v Patrick Jabbour, appellant.

(Ind. No. 2041/08)

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Christopher J. Cassar, P.C., Huntington, N.Y. (Larry E. Flowers of counsel), for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Robert A. Schwartz and Joanna Hershey of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Nassau County (Donnino, J.), rendered April 3, 2009, convicting him of criminal possession of a weapon in the third degree, upon his plea of guilty, and imposing sentence.

ORDERED that judgment is affirmed.

Contrary to the defendant's contention, the Supreme Court properly granted the People's application for leave to amend counts three and four of the indictment to change the description of the weapon he possessed to a gravity knife (*see* Penal Law §§ 265.01[1], 265.02[1]; *People v Ward*, 57 AD3d 582; *People v Hood*, 194 AD2d 556, 557). The amendments did not change the theory of the prosecution, and served simply to conform the indictment to the evidence presented to the grand jury, and to accurately reflect the criminal acts for which the grand jury intended to indict the defendant (*see People v Hood*, 194 AD2d at 557). Furthermore, the defendant failed to show that he was prejudiced by the amendments (*see People v Ward*, 57 AD3d at 582; *People v Logan*, 19 AD3d 939, 942). In addition, the amendments did not cure a failure of the indictment to "charge or state an offense" in violation of CPL 200.70(2) because the subject counts

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were not jurisdictionally defective (*see People v D'Angelo*, 98 NY2d 733, 734; *People v Ray*, 71 NY2d 849, 850; *People v Place*, 50 AD3d 1313, 1314; *People v Champion*, 20 AD3d 772, 774; *see also People v Jennings*, 60 AD3d 694).

MASTRO, J.P., COVELLO, ENG and BELEN, 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