

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

D12472
Y/cb

_____AD3d_____

Submitted - September 22, 2006

ROBERT W. SCHMIDT, J.P.
THOMAS A. ADAMS
MARK C. DILLON
JOSEPH COVELLO, JJ.

2004-08663
2005-00873

DECISION & ORDER

The People, etc., respondent,
v Theodore Hendrickson, appellant.

(Ind. No. 04-00133)

Lorilee M. Gates, Woodland Hills, Ca. (Susan Lynn Ferguson of counsel), admitted pro hac vice, for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Michael Jeffrey Ashraf, Richard Longworth Hecht, and Anthony J. Servino of counsel), for respondent.

Appeals by the defendant from a (1) judgment of the County Court, Westchester County (Adler, J.), rendered September 13, 2004, convicting him of rape in the first degree (two counts), rape in the third degree, sodomy in the first degree (two counts) and sodomy in the second degree (two counts), upon a jury verdict, and imposing sentence and (2) a resentence of the same court imposed December 9, 2004.

ORDERED that the judgment and the resentence are affirmed.

The defendant's claim that the trial court erred in allowing the People to present expert testimony since it served to bolster the victims' testimony and to prove the accuracy of the victims' accounts is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Gray*, 86 NY2d

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10). In any event, the trial court providently exercised its discretion in permitting the expert testimony (*see People v Carroll*, 95 NY2d 375, 387; *People v Taylor*, 75 NY2d 277; *People v Higgins*, 12 AD3d 775).

The defendant's remaining contention is without merit.

SCHMIDT, J.P., ADAMS, DILLON and COVELLO, 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