

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

D12861  
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Argued - November 6, 2006

ROBERT W. SCHMIDT, J.P.  
THOMAS A. ADAMS  
FRED T. SANTUCCI  
ROBERT A. LIFSON, JJ.

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2003-09359

DECISION & ORDER

The People, etc., respondent,  
v Joel Rojas, appellant.

(Ind. No. 2391-02)

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Robert C. Mitchell, Riverhead, N.Y. (John M. Dowden of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Steven A. Hovani, Patrick J. Gunn, Marcia R. Kucera, and Guy Arcidiacono of counsel; Mary-Beth Pitta on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Suffolk County (Mullen, J.), rendered September 18, 2003, convicting him of kidnapping in the first degree and criminal impersonation in the first degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620), we find that it was legally sufficient to establish the defendant's guilt beyond a reasonable doubt. On the issue of identity, the victim testified that the defendant was one of his kidnapers, and forensic evidence linked the defendant to the crime. Moreover, upon the exercise of our factual review power, we are satisfied that the verdict of guilt was not against the weight of the evidence (*see CPL 470.15[5]*).

The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

November 28, 2006

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The defendant's remaining contentions are without merit.

SCHMIDT, J.P., ADAMS, SANTUCCI and LIFSON, JJ., concur.

ENTER:

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

James Edward Pelzer  
Clerk of the Court