

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

D13210
O/mv

_____AD3d_____

Submitted - November 17, 2006

ROBERT W. SCHMIDT, J.P.
FRED T. SANTUCCI
GABRIEL M. KRAUSMAN
REINALDO E. RIVERA, JJ.

2005-07415

DECISION & ORDER

Crossland Mortgage Corp., respondent,
v Helen Roberts, appellant, et al., defendants.

(Index No. 12267/97)

Pamela D. Hayes, New York, N.Y., for appellant.

In an action to foreclose a mortgage, the defendant Helen Roberts appeals from an order of the Supreme Court, Queens County (Kelly, J.), entered July 19, 2005, which, after a hearing to determine the validity of service of process, denied her motion to vacate the judgment of foreclosure and sale.

ORDERED that the order is affirmed, without costs or disbursements.

Contrary to the appellant's contention, the plaintiff met its burden of establishing personal jurisdiction over the appellant by a preponderance of the evidence at the hearing (*see R.P. Cautela Realty v McDonald*, 239 AD2d 481). The Supreme Court properly concluded that the discrepancy between the appellant's actual age and the approximation thereof made by the process server at the time of service was insufficient to disprove personal service (*see R.P. Cautela Realty v McDonald, supra; Skyline Agency v Coppotelli, Inc.*, 117 AD2d 135; *cf. Warney v Haddad*, 194 AD2d 478).

The appellant's remaining contention is without merit.

SCHMIDT, J.P., SANTUCCI, KRAUSMAN and RIVERA, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

December 26, 2006

CROSSLAND MORTGAGE CORP. v ROBERTS