

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

D13279
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_____AD3d_____

Argued - November 28, 2006

HOWARD MILLER, J.P.
REINALDO E. RIVERA
PETER B. SKELOS
ROBERT J. LUNN, JJ.

2005-06359

DECISION & ORDER

The People, etc., respondent,
v Stephen Simon, appellant.

(Ind. No. 256/04)

Mischel & Horn, P.C., New York, N.Y. (Richard E. Mischel of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Grazia DiVincenzo, Patrick J. Gunn, and Marcia R. Kucera of counsel; David Allen on the brief), for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Gazzillo, J.), rendered June 2, 2005, convicting him of criminal usury in the first degree, criminal usury in the second degree, and coercion in the second 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. 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 defendant's contentions that the prosecutor improperly elicited testimony regarding the defendant's wealth or class, denigrated the defense counsel by impugning his integrity,

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and misled the jury during summation, are unpreserved for appellate review (*see* CPL 470.05[2]). In any event, those contentions, as well as the defendant's remaining contentions, are without merit.

MILLER, J.P., RIVERA, SKELOS and LUNN, 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