

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

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G/cb

_____AD3d_____

Argued - December 11, 2006

GABRIEL M. KRAUSMAN, J.P.
ANITA R. FLORIO
ROBERT J. LUNN
JOSEPH COVELLO, JJ.

2002-02519

DECISION & ORDER

The People, etc., respondent,
v Denise Pedro, appellant.

(Ind. No. 91/00)

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

Daniel M. Donovan, Jr., District Attorney, Staten Island, N.Y. (Karen F. McGee and Anne Crick of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Richmond County (Minardo, J.), rendered May 20, 2002, as amended May 29, 2002, convicting her of scheme to defraud in the first degree, grand larceny in the fourth degree, criminal possession of a forged instrument in the second degree (six counts), and petit larceny (five counts), upon a jury verdict, and imposing sentence.

ORDERED that the judgment, as amended, 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]*).

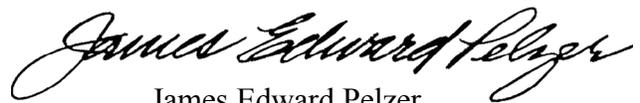
The defendant contends that the jury charge with regard to the count of scheme to defraud in the first degree was inadequate because certain terms in the charge were not defined. However, the charge on these this count was proper, as the court employed the charge recommended

in the pattern jury instructions (*see People v McDonald*, 283 AD2d 592; *People v Brown*, 250 AD2d 774; *People v Dering*, 140 AD2d 538). In addition, the defendant's contention that the court made errors in its charge on the counts of criminal possession of a forged instrument in the second degree, grand larceny, and petit larceny is not preserved for appellate review, and we decline to reach it in the exercise of our interest of justice jurisdiction (*see CPL 470.05[2]*; *People v McDonald*, 283 AD2d 592; *People v Bowels*, 220 AD2d 605).

The defendant's remaining contention alleging prosecutorial misconduct is without merit.

KRAUSMAN, J.P., FLORIO, LUNN 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