

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

D15262  
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Submitted - April 20, 2007

WILLIAM F. MASTRO, J.P.  
FRED T. SANTUCCI  
GABRIEL M. KRAUSMAN  
EDWARD D. CARNI, JJ.

2005-07961

DECISION & ORDER

The People, etc., respondent,  
v Jean Albert, appellant.

(Ind. No. 04-00416)

James D. Licata, New City, N.Y. (Lois Cappelletti of counsel), for appellant.

Michael E. Bongiorno, District Attorney, New City, N.Y. (Carrie A. Ciganek of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Rockland County (Kelly, J.), rendered August 2, 2005, convicting him of attempted robbery in the first degree and criminal possession of a weapon in the fourth degree, after a nonjury trial, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the People's contention, the defendant's argument that the evidence was legally insufficient to prove that he had the intent to commit the crime of attempted robbery in the first degree is preserved for appellate review (*see People v Soto*, 8 AD3d 683, 684; *cf. People v Gray*, 86 NY2d 10). 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 (*see CPL 470.15[5]*), we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

May 29, 2007

PEOPLE v ALBERT, JEAN

Page 1.

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

MASTRO, J.P., SANTUCCI, KRAUSMAN and CARNI, JJ., concur.

ENTER:

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

James Edward Pelzer  
Clerk of the Court