

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

D15585
Y/cb

_____AD3d_____

Argued - May 10, 2007

REINALDO E. RIVERA, J.P.
ROBERT A. SPOLZINO
ANITA R. FLORIO
DANIEL D. ANGIOLILLO, JJ.

2003-08139

DECISION & ORDER

The People, etc., respondent,
v Daniel Mathison, appellant.

(Ind. No. 7564/01)

Lynn W. L. Fahey, New York, N.Y. (Steven R. Bernhard of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Victor Barall, and Joseph Huttler of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Brennan, J.), rendered September 9, 2003, convicting him of assault in the first degree, criminal possession of a weapon in the second degree, and criminal possession of a weapon in the fourth 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. Resolution of issues of credibility is primarily a matter to be determined by the jury, which saw and heard the witnesses, and its determination should be accorded great deference on appeal (*see People v Romero*, 7 NY3d 633, 644-645; *People v Mateo*, 2 NY3d 383, 410, *cert denied* 542 US 946). 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*, *supra*).

June 19, 2007

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The defendant's remaining contentions either are without merit or do not require reversal.

RIVERA, J.P., SPOLZINO, FLORIO and ANGIOLILLO, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court