

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

D15663
Y/hu

_____AD3d_____

Argued - May 25, 2007

WILLIAM F. MASTRO, J.P.
MARK C. DILLON
JOSEPH COVELLO
THOMAS A. DICKERSON, JJ.

1999-09101

DECISION & ORDER

The People, etc., respondent,
v Jerry Green, appellant.

(Ind. No. 3996/97)

Randall D. Unger, Bayside, N.Y., for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano,
Jeanette Lifschitz, and Jennifer Etkin of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Rosenzweig, J.), rendered September 3, 1999, convicting him of robbery in the first degree and robbery in the second degree, after a nonjury trial, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's challenge to the legal sufficiency of the evidence is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Gray*, 86 NY2d 10, 19). In any event, viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620, 621), we find that it was legally sufficient to establish the defendant's identity as one of the robbers beyond a reasonable doubt (*see People v Gonzalez*, 3 AD3d 579). Moreover, resolution of issues of credibility is primarily a matter to be determined by the factfinder, 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 470.07[5]), we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero, supra*).

June 26, 2007

PEOPLE v GREEN, JERRY

Page 1.

Contrary to the defendant's contention, he was not deprived of the effective assistance of counsel (*see People v Henry*, 95 NY2d 563, 565; *People v Benevento*, 91 NY2d 708, 713).

The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80, 83).

MASTRO, J.P., DILLON, COVELLO and DICKERSON, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court