

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

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_____AD3d_____

Submitted - May 8, 2007

HOWARD MILLER, J.P.
WILLIAM F. MASTRO
GABRIEL M. KRAUSMAN
EDWARD D. CARNI, JJ.

2005-09645

DECISION & ORDER

The People, etc., respondent,
v Jennel Nesbitt, appellant.

(Ind. No. 209/05)

Joseph R. Faraguna, Sag Harbor, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Judith R. Sternberg and Andrea M. DiGregorio of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (LaPera, J.), rendered September 28, 2005, convicting her of burglary in the first degree, criminal possession of a weapon in the third degree, criminal possession of stolen property in the fourth degree (seven counts), and criminal possession of stolen property in the fifth degree (two counts), upon a jury verdict, 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, as her general motions to dismiss at the close of the People's case and at the close of all the evidence failed to specify any grounds for dismissal (*see* CPL 470.05[2]; *People v Logan*, 74 NY2d 859). In any event, 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).

June 26, 2007

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

MILLER, J.P., MASTRO, KRAUSMAN and CARNI, 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