

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

D16135
C/hu

_____AD3d_____

Submitted - June 21, 2007

STEPHEN G. CRANE, J.P.
GLORIA GOLDSTEIN
MARK C. DILLON
EDWARD D. CARNI, JJ.

2005-04916

DECISION & ORDER

The People, etc., respondent,
v Jeffrey Skya, appellant.

(Ind. No. 750/04)

Samuel E. Rieff, Garden City, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Ilisa T. Fleischer and Lauren Del
Giorno of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (La Pera, J.), rendered May 20, 2005, convicting him of disseminating indecent material to minors in the first degree and attempted disseminating indecent material to minors in the first degree (four counts), upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The insufficiency of factual allegations in an indictment is a nonjurisdictional defect (*see Matter of Taub v Altman*, 3 NY3d 30, 40 n 8; *People v Iannone*, 45 NY2d 589, 600-601; *People v George*, 261 AD2d 711, 713), and claims made in the trial level courts regarding nonjurisdictional defects in a jurisdictionally-sufficient accusatory instrument are forfeited by a defendant's plea of guilty (*see People v Taylor*, 65 NY2d 1, 5; *cf. People v Parilla*, 8 NY3d 654, 659). By pleading guilty, the defendant has forfeited his claim that the indictment did not sufficiently allege facts constituting the charged crimes (*see People v Taylor*, 65 NY2d 1, 5).

September 25, 2007

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Additionally, by pleading guilty, the defendant has forfeited his claim that his conduct did not satisfy the elements of the offense charged in the first four counts of the indictment (*see People v Shearer*, 29 AD3d 608, 609). The defendant does not make a similar claim with respect to the fifth count.

CRANE, J.P., GOLDSTEIN, DILLON 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, looping initial "J".

James Edward Pelzer
Clerk of the Court