

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

D16416
G/kmg

_____AD3d_____

Submitted - September 11, 2007

HOWARD MILLER, J.P.
PETER B. SKELOS
JOSEPH COVELLO
WILLIAM E. McCARTHY, JJ.

2004-04546

DECISION & ORDER

The People, etc., respondent,
v Noel Licea, appellant.

(Ind. No. 10143/98)

Lynn W. L. Fahey, New York, N.Y., for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Thomas M. Ross of counsel), for respondent.

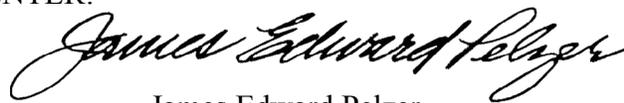
Appeal by the defendant from a resentencing of the Supreme Court, Kings County (Walsh, J.), imposed April 20, 2004, upon his conviction of burglary in the second degree, upon his plea of guilty.

ORDERED that the resentencing is affirmed.

The defendant's contention that his resentencing as a persistent violent felony offender violated his constitutional rights pursuant to *Apprendi v New Jersey* (530 US 466) is without merit (see *Almendarez-Torres v United States*, 523 US 224, 244; Penal Law § 70.08[1][a]; *People v Adelman*, 36 AD3d 926, 928; *People v Highsmith*, 21 AD3d 1037, 1038-1039; *People v Brown*, 16 AD3d 430, 431; *People v Renna*, 13 AD3d 398).

MILLER, J.P., SKELOS, COVELLO and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 2, 2007

PEOPLE v LICEA, NOEL