

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

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Submitted - October 29, 2007

ROBERT A. SPOLZINO, J.P.
DAVID S. RITTER
JOSEPH COVELLO
THOMAS A. DICKERSON, JJ.

2006-02687

DECISION & ORDER

The People, etc., respondent,
v David Simpkins, appellant.

(Ind. No. 1277N/01)

Joseph R. Faraguna, Sag Harbor, N.Y., for appellant, and appellant pro se.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Peter A. Weinstein and Lauren Del Giorno of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (Sullivan, J.), rendered March 8, 2006, convicting him of robbery in the first degree (three counts) and robbery in the second degree (four counts), upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

In reviewing a claim of legal insufficiency, the evidence must be viewed in the light most favorable to the People (*see People v Contes*, 60 NY2d 620). The evidence that, on three occasions, the defendant displayed what appeared to be a firearm while demanding money from the victims during robberies of a convenience store and “mini-mart” was legally sufficient to establish the defendant’s guilt of robbery in the first degree (*see* Penal Law § 160.15; *People v Lopez*, 73 NY2d 214, 222; *People v Micolò*, 30 AD3d 615, 616; *People v Bell*, 5 AD3d 804). The evidence also supported the convictions for robbery in the second degree based upon the defendant’s “forcible stealing” of property from a convenience store and mini-mart on other dates (*see People v Giordano*, 296 AD2d 714; *People v Gantt*, 294 AD2d 446). Moreover, upon the exercise of our factual review power (*see* CPL 470.15[5]), we are satisfied that the verdict of guilty was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633, 644-645; *People v Bleakley*, 69 NY2d 490).

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The defendant's remaining contentions, including those raised in his supplemental pro se brief, are unpreserved for appellate review and, in any event, are without merit.

SPOLZINO, J.P., RITTER, COVELLO and DICKERSON, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court