

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

D16970
O/kmg

_____AD3d_____

Submitted - October 26, 2007

ROBERT W. SCHMIDT, J.P.
REINALDO E. RIVERA
FRED T. SANTUCCI
RUTH C. BALKIN, JJ.

2005-00213

DECISION & ORDER

The People, etc., respondent,
v George Gouvatsos, appellant.

(Ind. No. 165/03)

Leon H. Tracy, Jericho, N.Y., for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano and Edward D. Saslaw of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Roman, J.), rendered December 21, 2004, convicting him of conspiracy in the second degree (two counts) and criminal solicitation in the second degree (three counts), upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the testimony of the confidential informant was incredible as a matter of law is unpreserved for appellate review (*see* CPL 470.05[2]) and, in any event, is without merit. The testimony was not incredible as a matter of law (*see People v Pagan*, 291 AD2d 509, 510; *People v McDaniel*, 233 AD2d 343, 343-344) and was corroborated by other evidence (*see People v Bibbs*, 31 AD3d 655, 656).

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*

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Romero, 7 NY3d 633).

The defendant received the effective assistance of counsel (*see People v Caban*, 5 NY3d 143, 152; *People v Stultz*, 2 NY3d 277, 287).

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

SCHMIDT, J.P., RIVERA, SANTUCCI and BALKIN, 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