

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

D16996
Y/cb

_____AD3d_____

Submitted - October 30, 2007

DAVID S. RITTER, J.P.
GLORIA GOLDSTEIN
PETER B. SKELOS
MARK C. DILLON, JJ.

2005-04764

DECISION & ORDER

The People, etc., respondent,
v Ricardo Reyes, appellant.

(Ind. No. 474/04)

Ronna Gordon-Galchus, Bayside, N.Y., for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano,
Sharon Y. Brodt, and Joan J. Tarbutton of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Lewis, J.), rendered May 9, 2005, convicting him of burglary in the second degree and criminal possession of stolen property in the third degree, 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 (*see* CPL 470.05[2]; *People v Gray*, 86 NY2d 10, 19-21; *People v Ayala*, 15 AD3d 496; *People v Montalbo*, 254 AD2d 504, 505). 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).

The defendant's contention that the evidence of his guilt was wholly circumstantial and that the trial court erred in failing to give a special circumstantial evidence charge is unpreserved

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for appellate review, as the defendant did not request a circumstantial evidence charge or object to the charge as given (*see* CPL 470.05[2]).

RITTER, J.P., GOLDSTEIN, SKELOS and DILLON, 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