

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

D17167
W/kmg

_____AD3d_____

Argued - November 19, 2007

GABRIEL M. KRAUSMAN, J.P.
STEVEN W. FISHER
DANIEL D. ANGIOLILLO
RUTH C. BALKIN, JJ.

2005-06159

DECISION & ORDER

The People, etc., respondent,
v Anthony Ayler, appellant.

(Ind. No. 3217/03)

Lynn W. L. Fahey, New York, N.Y. (John Gemmill of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Steven A. Mann, and Linda Breen of counsel; John P. Buza on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Reichbach, J.), rendered June 8, 2005, convicting him of assault in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the People failed to present legally sufficient evidence to prove that he caused serious physical injury to any of the complainants is unpreserved for appellate review (*see* CPL 470.05 [2]; *People v Gray*, 86 NY2d 10, 19-21; *People v Udzinski*, 146 AD2d 245). 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 (*see People v Garcia*, 9 AD3d 470, 471).

Defense counsel provided the defendant with meaningful representation (*see generally People v Baldi*, 54 NY2d 137).

December 4, 2007

Page 1.

PEOPLE v AYLER, ANTHONY

The defendant's remaining contention is unpreserved for appellate review and we decline to reach it in the exercise of our interest of justice jurisdiction.

KRAUSMAN, J.P., FISHER, ANGIOLILLO and BALKIN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, stylized initial "J".

James Edward Pelzer
Clerk of the Court