

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

D17358
W/cb

_____AD3d_____

Submitted - November 9, 2007

REINALDO E. RIVERA, J.P.
FRED T. SANTUCCI
GABRIEL M. KRAUSMAN
ROBERT A. LIFSON, JJ.

2005-04742

DECISION & ORDER

The People, etc., respondent,
v Conrado Bennett, appellant.

(Ind. No. 2033/04)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Ruth E. Ross, and Judith C. Aarons of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Sullivan, J.), rendered May 4, 2005, convicting him of endangering the welfare of a child and sexual abuse in the third degree (four counts), after a nonjury trial, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the evidence adduced at trial was legally insufficient to support his conviction because the complainant's testimony was incredible as a matter of law is unpreserved for appellate review (*see People v Gray*, 86 NY2d 10, 19; *People v Eley*, 31 AD3d 662, 663). 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 Matter of Kryzstof K.*, 283 AD2d 431, 432; *People v Holmes*, 232 AD2d 169; *People v Balacky*, 203 AD2d 471; *People v Holder*, 203 AD2d 382; *People v Hobot*, 200 AD2d 586, 593, *affd* 84 NY2d 1021).

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Moreover, resolution of issues of credibility is primarily a matter to be determined by the factfinder, which saw and heard the witnesses, and its determination should be accorded great deference on appeal (*see People v Romero*, 7 NY3d 633, 644-645; *People v Mateo*, 2 NY3d 383, 410, *cert denied* 542 US 946). 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 at 644-645).

RIVERA, J.P., SANTUCCI, KRAUSMAN and LIFSON, 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