

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

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Submitted - December 7, 2007

FRED T. SANTUCCI, J.P.
ROBERT A. LIFSON
JOSEPH COVELLO
DANIEL D. ANGIOLILLO, JJ.

2005-00202

DECISION & ORDER

The People, etc., respondent,
v Kevin Crowder, appellant.

(Ind. No. 2402/01)

Lynn W. L. Fahey, New York, N.Y. (Bertrand J. Kahn of counsel), for appellant, and appellant pro se.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Solomon Neubort of counsel), for respondent.

Appeal by the defendant from a resentence of the Supreme Court, Kings County (D'Emic, J.), imposed December 8, 2004, upon his conviction of burglary in the second degree, criminal contempt in the first degree, and assault in the third degree (two counts), upon a jury verdict.

ORDERED that the resentence is affirmed.

New York's persistent violent felony offender statute, Penal Law § 70.08, pursuant to which the defendant was sentenced, is not unconstitutional (*see People v Rivera*, 5 NY3d 61, *cert denied* 546 US 984; *People v Rosen*, 96 NY2d 329, *cert denied* 534 US 899; *People v Garcia-Lopez*, 308 AD2d 366, *cert denied* 541 US 1078; *People v Grigg*, 299 AD2d 367; *People v Feliciano*, 285 AD2d 371; *People v Melendez*, 282 AD2d 409; *People v Grizas*, 281 AD2d 346).

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

The contentions raised in the defendant's supplemental pro se brief are without merit.

SANTUCCI, J.P., LIFSON, COVELLO and ANGIOLILLO, 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