

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

D17564  
C/kmg

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Submitted - December 14, 2007

FRED T. SANTUCCI, J.P.  
ROBERT A. LIFSON  
JOSEPH COVELLO  
THOMAS A. DICKERSON, JJ.

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2005-11894

DECISION & ORDER

The People, etc., respondent,  
v Samuel Stubbs, appellant.

(Ind. No. 04-00935)

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Peter A. Sell, New York, N.Y., for appellant.

Francis D. Phillips II, District Attorney, Goshen, N.Y. (Daniel M. Reback of counsel),  
for respondent.

Appeal by the defendant from a judgment of the County Court, Orange County (Rosenwasser, J.), rendered June 27, 2005, convicting him of criminal possession of a weapon in the third degree (two counts), after a nonjury trial, 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, 20-21). In any event, viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620, 621), we find that it was legally sufficient to establish his guilt beyond a reasonable doubt.

The 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]),

February 5, 2008

Page 1.

PEOPLE v STUBBS, SAMUEL

we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633; *People v Miles*, 44 AD3d 1073).

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