

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

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_____AD3d_____

Submitted - January 22, 2007

A. GAIL PRUDENTI, P.J.
ROBERT A. LIFSON
JOSEPH COVELLO
RUTH C. BALKIN, JJ.

2001-03879

DECISION & ORDER

The People, etc., respondent,
v Jose Mejia, appellant.

(Ind. No. 1201/99)

Steven Feldman, Uniondale, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Robert A. Schwartz and Laurie K. Spinella of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (Calabrese, J.), rendered April 27, 2001, convicting him of gang assault in the first degree, assault in the first degree, and criminal possession of a weapon in the fourth degree, upon a jury verdict, and imposing sentence. The appeal brings up for review the denial, after a hearing, of that branch of the defendant's omnibus motion which was to suppress his statements to law enforcement officials.

ORDERED that the judgment is affirmed.

The record supports the hearing court's conclusion that the defendant voluntarily made incriminating statements to police detectives after knowingly, voluntarily, and intelligently waiving his *Miranda* rights (*see Miranda v Arizona*, 384 US 436). Accordingly, the hearing court correctly refused to suppress those statements (*see People v Valverde*, 13 AD3d 658, 659).

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 the defendant's guilt of the crimes charged beyond a reasonable doubt. Moreover, upon the exercise of our factual review

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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 sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

The defendant's remaining contentions are without merit.

PRUDENTI, P.J., LIFSON, COVELLO 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, sweeping initial "J".

James Edward Pelzer
Clerk of the Court