

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

D18877
G/kmg

_____AD3d_____

Submitted - March 20, 2008

WILLIAM F. MASTRO, J.P.
FRED T. SANTUCCI
RANDALL T. ENG
ARIEL E. BELEN, JJ.

2006-06492

DECISION & ORDER

The People, etc., respondent,
v Patricia Diaz, a/k/a Roman, Jacqueline, appellant.

(Ind. No. 1407/99)

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

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Ellen C. Abbot, and Melissa Mortazavi of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Cooperman, J.), rendered June 27, 2006, convicting her of burglary in the second degree and criminal possession of stolen property in the fifth degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's challenge to the trial court's *Sandoval* ruling (*see People v Sandoval*, 34 NY2d 371) is without merit. The defendant's past crimes and past use of aliases were highly relevant on the issue of credibility because they demonstrated the defendant's willingness to deliberately further her self-interest at the expense of society (*see People v Telesford*, 2 AD3d 757, 758; *People v Fulford*, 280 AD2d 682). Moreover, the prosecutor was not permitted to inquire about the underlying facts of these prior crimes (*see People v Telesford*, 2 AD3d at 758). The defendant failed to sustain her burden of "demonstrating that the prejudicial effect of the evidence of [her] prior convictions so outweighed its probative worth that its exclusion was warranted" (*People v Myron*, 28 AD3d 681, 683; *see People v Mackey*, 49 NY2d 274, 282; *People v Boseman*, 161 AD2d 601, 602).

April 15, 2008

Page 1.

PEOPLE v DIAZ, PATRICIA, a/k/a ROMAN, JACQUELINE

The defendant failed to raise any constitutional objections to the trial court's *Sandoval* ruling and therefore, to the extent that the defendant now raises constitutional claims, they are not preserved for appellate review (*see People v Grant*, 7 NY3d 421, 424; *People v Olibencia*, 45 AD3d 607, 608).

MASTRO, J.P., SANTUCCI, ENG and BELEN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court