

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

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_____AD3d_____

Argued - May 5, 2008

FRED T. SANTUCCI, J.P.
JOSEPH COVELLO
ARIEL E. BELEN
CHERYL E. CHAMBERS, JJ.

2006-02354

DECISION & ORDER

The People, etc., respondent,
v Jesus Perez, appellant.

(Ind. No. 1981/04)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Rhea A. Grob of counsel; Lauren Husbands on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Gary, J.), rendered February 3, 2006, convicting him of assault in the second degree and bail jumping in the first degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the evidence was legally insufficient to support his conviction of assault in the second degree is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Finger*, 95 NY2d 894; *People v Cortes*, 44 AD3d 1068, *lv denied* 10 NY3d 763). In any event, viewing the evidence in the light most favorable to the prosecution (*see People v Smith*, 6 NY3d 827, 828-829, *cert denied* 548 US 905; *People v Contes*, 60 NY2d 620, 621), we find that it was legally sufficient to establish the defendant's guilt of assault in the second degree beyond a reasonable doubt (*see People v Moore*, 172 AD2d 855; *People v Mascala*, 121 AD2d 400). Moreover, 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 633).

May 27, 2008

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The defendant's remaining contentions, raised in his supplemental pro se brief, are without merit.

SANTUCCI, J.P., COVELLO, BELEN and CHAMBERS, 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