

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

D19460  
X/kmg

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - May 1, 2008

ROBERT A. LIFSON, J.P.  
HOWARD MILLER  
MARK C. DILLON  
RANDALL T. ENG, JJ.

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2005-06558

DECISION & ORDER

The People, etc., respondent,  
v Derrick Tigner, appellant.

(Ind. No. 04-1074)

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Richard S. Birnbaum, White Plains, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Laurie Sapakoff, Richard Longworth Hecht, and Anthony J. Servino of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Westchester County (Molea, J.), rendered June 2, 2005, convicting him of murder in the second degree and criminal possession of a weapon in the third degree, upon a jury verdict, 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, since he failed to raise this specific contention at trial (*see* CPL 470.05[2]; *People v Lawson*, 40 AD3d 657). In any event, viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620), we find that it was legally sufficient to establish the defendant's guilt of the crime of murder in the second degree beyond a reasonable doubt. Contrary to the defendant's contention, his intent to cause the death of the victim can be inferred from evidence that he plunged a knife three to four inches deep into the victim's chest (*see People v Dones*, 279 AD2d 366; *People v Angarita*, 247 AD2d 397). 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 disagreement with the strategy employed by defense counsel does not amount to a deprivation of effective assistance of counsel (*see People v Benevento*, 91 NY2d 708, 712; *People v Lassiter*, 44 AD3d 877; *People v Palacios*, 295 AD2d 452).

LIFSON, J.P., MILLER, DILLON and ENG, 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