

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

D19467  
Y/kmg

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

Argued - May 8, 2008

REINALDO E. RIVERA, J.P.  
ROBERT A. SPOLZINO  
THOMAS A. DICKERSON  
RANDALL T. ENG, JJ.

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2007-00187

DECISION & ORDER

The People, etc., respondent,  
v Richard Gazader, appellant.

(Ind. No. 686/06)

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Steven Banks, New York, N.Y. (Heidi Bota of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Rhea A. Grob of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, King County (D’Emic, J.), rendered October 23, 2006, convicting him of attempted murder in the second degree, assault in the second degree (three counts), burglary in the first degree (two counts), and criminal contempt in the first degree (three counts), upon a plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant’s contention that his plea was not knowingly, voluntarily, and intelligently made is unpreserved for appellate review because the defendant never moved to withdraw his plea (*see People v Clarke*, 93 NY2d 904, 906; *People v Lopez*, 71 NY2d 662, 665; *People v Jones*, 41 AD3d 509). The narrow exception to the preservation rule does not apply herein (*see People v Lopez*, 71 NY2d 662, 666). In any event, the plea of guilty was knowingly, voluntarily, and intelligently made (*see People v Fiumefreddo*, 82 NY2d 536, 543; *People v LeGrady*, \_\_\_\_\_ AD3d\_\_\_\_\_, 2008 NY Slip Op 03669 [2d Dept 2008]).

May 27, 2008

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

RIVERA, J.P., SPOLZINO, DICKERSON 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