

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

D19672  
C/kmg

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Submitted - May 16, 2008

ROBERT A. SPOLZINO, J.P.  
JOSEPH COVELLO  
THOMAS A. DICKERSON  
RANDALL T. ENG, JJ.

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2005-00939

DECISION & ORDER

The People, etc., respondent,  
v Floyd Stevenson, appellant.

(Ind. No. 03-1437)

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Robert C. Mitchell, Riverhead, N.Y. (John M. Dowden of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Guy Arcidiacono, Caren C. Manzello, and Edward A. Bannan of counsel; Stephen Miller on the brief), for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Hudson, J.), rendered December 23, 2004, convicting him of murder in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Upon the exercise of our factual review power, we are satisfied that the verdict of guilt was not against the weight of the evidence (*see* CPL 470.15[5]). The defendant failed to preserve for appellate review his contention that the County Court erroneously admitted the deceased victim's statements into evidence (*see People v Smith*, 37 AD3d 333; *People v Fryar*, 29 AD3d 919; *People v Paige*, 283 AD2d 445) and we decline to review that contention in the exercise of our interest of justice jurisdiction. The defendant's contention that the evidence was legally insufficient to establish his guilt of murder in the second degree is also unpreserved for appellate review (*see* CPL 470.05[2]; *People v Gray*, 86 NY2d 10; *People v Udzinski*, 146 AD2d 245).

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

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The defendant's contentions raised in Points 3, 5, and 6 of his brief are unpreserved for appellate review, and his remaining contentions are without merit.

SPOLZINO, J.P., COVELLO, DICKERSON and ENG, 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