

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

D19685  
O/kmg

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

Submitted - May 16, 2008

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

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2006-00875

DECISION & ORDER

The People, etc., respondent,  
v Charles Hicks, appellant.

(Ind. No. 248/05)

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Steven Banks, New York, N.Y. (Jonathan Garelick of counsel), for appellant.

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

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Cooperman, J.), rendered January 12, 2006, convicting him of burglary in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620, 621), we find that it was legally sufficient to establish beyond a reasonable doubt that he entered the complainant's building with the intent to commit a crime therein (*see Penal Law § 140.25[1]*; *Matter of Dexter A.*, 208 AD2d 720, 720-721; *People v McCrea*, 194 AD2d 742, 743-744). 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).

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

The defendant's remaining contention is unpreserved for appellate review (*see CPL*

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470.05 [2]) and, in any event, is without merit (*see People v Moore*, 303 AD2d 691, 692; *People v Moore*, 139 AD2d 676).

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, flowing style.

James Edward Pelzer  
Clerk of the Court