

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

D19977
C/prt

_____AD3d_____

Argued - June 19, 2008

WILLIAM F. MASTRO, J.P.
MARK C. DILLON
RANDALL T. ENG
ARIEL E. BELEN, JJ.

2007-01848

DECISION & ORDER

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

(Ind. No. 06-00485)

Larkin, Axelrod, Ingrassia & Tetenbaum, LLP, Newburgh, N.Y. (John Ingrassia and Kathleen Wells of counsel), for appellant.

Francis D. Phillips II, District Attorney, Goshen, N.Y. (Andrew R. Kass of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Orange County (Berry, J.), rendered January 29, 2007, convicting him of attempted use of a child in a sexual performance, attempted promoting a sexual performance by a child, attempted criminal sexual act in the third degree, and endangering the welfare of a child (two counts), after a nonjury trial, and imposing sentence.

ORDERED that the judgment is affirmed.

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 beyond a reasonable doubt (*see* Penal Law §§ 110.00; 263.05; 263.15; 130.40[2]; 260.10[1]; *People v Mahboubian*, 74 NY2d 174; *People v Bracey*, 41 NY2d 296). 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).

MASTRO, J.P., DILLON, ENG and BELEN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style with a large initial "J".

James Edward Pelzer
Clerk of the Court