

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

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_____AD3d_____

Submitted - September 29, 2008

FRED T. SANTUCCI, J.P.
MARK C. DILLON
THOMAS A. DICKERSON
CHERYL E. CHAMBERS, JJ.

2004-10723

DECISION & ORDER

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

(Ind. No. 1288/04)

Stanley Neustadter, New York, N.Y., for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Sharon Y. Brodt, and Jennifer S. Michael of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Kohm, J.), rendered November 23, 2004, convicting him of assault in the first degree and assault in the second degree, upon a jury verdict, and imposing sentence.

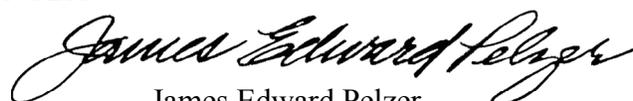
ORDERED that the judgment is affirmed.

The defendant's contention that his conviction was against the weight of the evidence is without merit. Multiple witnesses, including one of the victims, identified the defendant as an assailant. In fulfilling our responsibility to conduct an independent review of the weight of the evidence (*see* CPL 470.15[5]; *People v Danielson*, 9 NY3d 342), we nevertheless accord great deference to the jury's opportunity to view the witnesses, hear the testimony, and observe demeanor (*see People v Mateo*, 2 NY3d 383, 410, *cert denied* 542 US 946; *People v Bleakley*, 69 NY2d 490, 495). Upon reviewing the record here, we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

The defendant's remaining contention is without merit.

SANTUCCI, J.P., DILLON, DICKERSON and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 21, 2008

PEOPLE v CRUZ, JESUS