

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

D21713
Y/kmg

_____AD3d_____

Submitted - December 15, 2008

DANIEL D. ANGIOLILLO, J.P.
JOHN M. LEVENTHAL
ARIEL E. BELEN
CHERYL E. CHAMBERS, JJ.

2007-00302

DECISION & ORDER

The People, etc., respondent,
v Luis Arroyo, appellant.

(Ind. No. 301/04)

Lynn W.L. Fahey, New York, N.Y. (De Nice Powell of counsel), for appellant.

Daniel M. Donovan, Jr., District Attorney, Staten Island, N.Y. (Morrie I. Kleinbart
and Lauren-Brooke Eisen of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Richmond County (Collini, J.), rendered January 4, 2007, convicting him of attempted murder in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the People's expert in surgery and trauma should not have been permitted to testify that, in his opinion, the complainant's injuries could not have been self-inflicted is unpreserved for appellate review, as the defendant failed to object to the testimony with specificity (*see People v Hawkins*, 11 NY3d 484; *People v Robinson*, 88 NY2d 1001, 1002; *People v Clas*, 54 AD3d 770, 770; *People v Waugh*, 189 AD2d 907, 908). In any event, even assuming that the Supreme Court improvidently exercised its discretion in admitting the testimony (*see People v Cronin*, 60 NY2d 430, 432-433; *People v Ciaccio*, 47 NY2d 431, 439; *People v Langlois*, 17 AD3d 772, 774; *People v Paschall*, 91 AD2d 645, 645), any error was harmless, as there was overwhelming evidence of the defendant's guilt, and no significant probability that the error

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contributed to his conviction (*see People v Crimmins*, 36 NY2d 230, 241-242).

ANGIOLILLO, J.P., LEVENTHAL, BELEN and CHAMBERS, 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