

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

D21815
Y/kmg

_____AD3d_____

Submitted - December 16, 2008

REINALDO E. RIVERA, J.P.
FRED T. SANTUCCI
EDWARD D. CARNI
THOMAS A. DICKERSON, JJ.

2006-05919

DECISION & ORDER

The People, etc., respondent,
v Roberto Ramirez, appellant.

(Ind. No. 944/05)

Steven Banks, New York, N.Y. (Cheryl P. Williams of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano,
Nicoletta J. Caferri, and Rebecca Height of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Eng, J.), rendered March 22, 2006, convicting him of aggravated sexual abuse in the third degree, upon a nonjury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

As a threshold matter, the defendant's challenge to the legal sufficiency of the evidence supporting his conviction is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Hawkins*, 11 NY3d 484; *People v Gordon*, 47 AD3d 833, 833-834; *People v Colon*, 43 AD3d 951). In any event, viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620; *People v Hayes*, 47 AD3d 835), we find that it was legally sufficient to establish the defendant's guilt beyond a reasonable doubt (*see People v Burgos*, 18 AD3d 667; *People v Smith*, 303 AD2d 426; *People v Best*, 294 AD2d 512). Moreover, 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

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that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

RIVERA, J.P., SANTUCCI, CARNI and DICKERSON, 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