

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

D21819  
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Argued - December 9, 2008

WILLIAM F. MASTRO, J.P.  
STEVEN W. FISHER  
HOWARD MILLER  
EDWARD D. CARNI, JJ.

2006-04056

DECISION & ORDER

The People, etc., respondent,  
v Ferdinand Sandoval, appellant.

(Ind. No. 2236/04)

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Steven Banks, New York, N.Y. (Michael C. Taglieri of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano and Sharon Y. Brodt of counsel; Robert Levine on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Spires, J.), rendered March 14, 2006, convicting him of criminal possession of stolen property in the fifth degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the evidence was legally insufficient to establish his guilt of the crime of criminal possession of stolen property in the fifth degree is unpreserved for appellate review, as the defendant did not move for a trial order of dismissal with respect to this count (*see* CPL 470.05[2]; *People v Hawkins*, 11 NY2d 484; *People v Urena*, 46 AD3d 714; *People v Richmond*, 36 AD3d 721). In any event, 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. 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 Moghaddam*, 56 AD3d 801). 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).

MASTRO, J.P., FISHER, MILLER and CARNI, 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