

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

D22204
C/cb

_____AD3d_____

Submitted - January 16, 2009

STEVEN W. FISHER, J.P.
ANITA R. FLORIO
THOMAS A. DICKERSON
ARIEL E. BELEN, JJ.

2007-00166

DECISION & ORDER

The People, etc., respondent,
v Filbert Samaroo, appellant.

(Ind. No. 9280-05)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Camille O'Hara Gillespie, and Tomislav Joksimovic of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (McKay, J.), rendered December 8, 2006, convicting him of resisting arrest, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the evidence was legally insufficient to support his conviction of resisting arrest is unpreserved for appellate review (*see People v Hawkins*, 11 NY3d 484; *People v Moore*, 36 AD3d 719). 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[15]*; *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).

February 24, 2009

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The defendant's remaining contention is without merit (*see People v Wood*, 40 AD3d 663, 664).

FISHER, J.P., FLORIO, DICKERSON and BELEN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court