

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

D22350  
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Argued - February 2, 2009

STEVEN W. FISHER, J.P.  
JOSEPH COVELLO  
DANIEL D. ANGIOLILLO  
JOHN M. LEVENTHAL, JJ.

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2007-04733

DECISION & ORDER

The People, etc., respondent,  
v Jesse Guerra, appellant.

(Ind. No. 632/06)

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

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Peter A. Weinstein and Judith R. Sternberg of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (Kase, J.), rendered April 23, 2007, convicting him of assault in the second degree, menacing in the second degree, and criminal possession of a weapon in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant contends that the jury verdict convicting him of assault in the second degree and menacing in the second degree was against the weight of the evidence. 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 contention that the jury's verdict was repugnant is unpreserved for

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appellate review (*see* CPL 470.05[2]; *People v Alfaro*, 66 NY2d 985, 987; *People v Graham*, 307 AD2d 935) and, in any event, is without merit (*see* *People v Haymes*, 34 NY2d 639, 640; *People v Salazar*, 16 AD3d 439, 439; *People v Anthony*, 273 AD2d 246, 246; *People v Holloway*, 253 AD2d 767, 768).

The defendant's remaining contentions do not require reversal.

FISHER, J.P., COVELLO, ANGIOLILLO and LEVENTHAL, 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