

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

D23006  
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Submitted - March 20, 2009

WILLIAM F. MASTRO, J.P.  
MARK C. DILLON  
JOSEPH COVELLO  
THOMAS A. DICKERSON, JJ.

2007-11142

DECISION & ORDER

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

(Ind. No. 2797/06)

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Steven Banks, New York, N.Y. (Adrienne Hale of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Ellen C. Abbot, and Marilyn Filingeri of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Cooperman, J.), rendered November 28, 2007, convicting him of robbery in the second degree and criminal possession of stolen property in the fifth degree, after a nonjury trial, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant was convicted of robbery in the second degree and criminal possession of stolen property in the fifth degree. To the extent that the defendant claims that the People adduced legally insufficient evidence at trial to support these convictions, this claim is unpreserved for appellate review (*see People v Hawkins*, 11 NY3d 484; *People v Robles*, 34 AD3d 849). In any event, viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620, 621), we find that it was legally sufficient to establish the defendant's guilt beyond a reasonable doubt.

Additionally, 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, 348-349), we

April 28, 2009

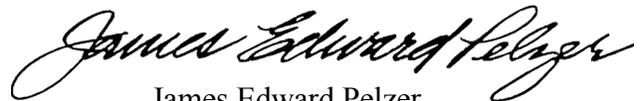
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nevertheless accord great deference to the fact finder's opportunity to view the witnesses, hear the testimony, and observe demeanor (*see People v Mateo*, 2 NY3d 383, 410, *cert denied* 542 US 946; *People v Bleakley*, 69 NY2d 490, 495). Upon reviewing 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 complainant identified the defendant both on the night of the incident and at trial, and the defendant was apprehended by the police in possession of the complainant's property in the vicinity of where the incident occurred.

MASTRO, J.P., DILLON, COVELLO and DICKERSON, 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