

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

D23809  
C/kmg

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Submitted - June 11, 2009

ROBERT A. SPOLZINO, J.P.  
FRED T. SANTUCCI  
ANITA R. FLORIO  
PLUMMER E. LOTT, JJ.

2007-04191

DECISION & ORDER

The People, etc., respondent,  
v Louis McCrae, appellant.

(Ind. No. 9597/05)

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Lynn W. L. Fahey, New York, N.Y. (Kendra L. Hutchinson of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Rhea A. Grob,  
and Jill Oziemblewski of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (J. Goldberg, J.), rendered March 29, 2007, convicting him of sexual abuse in the first degree and endangering the welfare of a child, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's challenge to the legal sufficiency of the evidence is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Hawkins*, 11 NY3d 484, 492; *People v Gray*, 86 NY2d 10, 19). 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. Upon our independent review pursuant to CPL 470.15(5), we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

While the defendant correctly contends that the court erred in admitting certain testimony as “prompt outcry” evidence (*People v McDaniel*, 81 NY2d 10, 16), reversal is not

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warranted since the error was harmless (*see People v Crimmins*, 36 NY2d 230, 242). Similarly, to the extent that the prosecutor made improper remarks during opening statements and summation, the error was harmless (*see People v Crimmins*, 36 NY2d at 242).

SPOLZINO, J.P., SANTUCCI, FLORIO and LOTT, 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