

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

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Submitted - June 19, 2009

WILLIAM F. MASTRO, J.P.  
FRED T. SANTUCCI  
RANDALL T. ENG  
PLUMMER E. LOTT, JJ.

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2003-07512

DECISION & ORDER

The People, etc., respondent,  
v Joel Roberts, appellant.

(Ind. No. 9457/01)

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Steven Banks, New York, N.Y. (Jeffrey Dellheim of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Ann Bordley of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Chambers, J.), rendered August 12, 2003, convicting him of murder in the second degree (two counts), assault in the second degree, and criminal possession of a weapon in the third degree (three counts), 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). 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, 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).

Contrary to the defendant's contention, the trial court properly permitted the People to elicit testimony regarding an attack on the defendant's accomplice in prison in order to establish the accomplice's state of mind with respect to his decision to cooperate with the District Attorney's

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office (*see People v Nurse*, 5 AD3d 401; *People v Boatwright*, 297 AD2d 603; *People v Ealey*, 272 AD2d 269).

The defendant's remaining contention is unpreserved for appellate review and, in any event, any error does not require reversal.

MASTRO, J.P., SANTUCCI, ENG 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