

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

D23926
C/kmg

_____AD3d_____

Submitted - June 22, 2009

ROBERT A. SPOLZINO, J.P.
PETER B. SKELOS
MARK C. DILLON
JOSEPH COVELLO, JJ.

2007-06448

DECISION & ORDER

The People, etc., respondent,
v Denise Taylor, appellant.

(Ind. No. 6879/05)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Shulamit Rosenblum Nemeck, and James R. Dillon of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Mullen, J.), rendered June 25, 2007, convicting her of grand larceny in the second degree and scheme to defraud in the first degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that certain testimony elicited during trial was irrelevant and prejudicial is unpreserved for appellate review (*see People v Green*, 56 AD3d 490; *People v Middleton*, 52 AD3d 533, 534), and is also waived (*see People v Gousse*, 57 AD3d 800, 800-801; *People v Grant*, 54 AD3d 967; *People v Holmes*, 47 AD3d 946). In any event, even assuming that any error occurred, the error was harmless (*see People v Crimmins*, 36 NY2d 230).

The defendant's contention that the prosecutor made inappropriate remarks during summation is similarly unpreserved for appellate review (*see People v Carrieri*, 49 AD3d 660, 662; *People v Witherspoon*, 48 AD3d 599, 600; *People v Dorsette*, 47 AD3d 728; *People v Ivory*, 307 AD2d 1000, 1001). In any event, “[t]o the extent that the prosecutor may have exceeded the bounds of permissible rhetorical comment, any error was harmless” (*People v Carter*, 36 AD3d 624; *see*

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People v Witherspoon, 48 AD3d at 600; *People v Dorsette*, 47 AD3d at 728; *People v Ivory*, 307 AD2d at 1001).

The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80; *see also People v Mann*, 32 AD3d 865, 866).

The defendant received the effective assistance of counsel (*see People v Caban*, 5 NY3d 143, 155-156; *People v Tonge*, 93 NY2d 838, 840; *People v Robbins*, 48 AD3d 711).

The defendant's remaining contentions are unpreserved for appellate review, and in any event, are without merit.

SPOLZINO, J.P., SKELOS, DILLON and COVELLO, 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