

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

D25234
O/kmg

_____AD3d_____

Submitted - November 2, 2009

MARK C. DILLON, J.P.
ANITA R. FLORIO
HOWARD MILLER
DANIEL D. ANGIOLILLO, JJ.

2008-11213

DECISION & ORDER

The People, etc., respondent,
v Kenneth Armstead, appellant.

(Ind. No. 181/05)

John F. McGlynn, Rockville Centre, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Tammy J. Smiley and Jason P. Weinstein of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Nassau County (Ayers, J.), rendered November 13, 2008, convicting him of criminal sale of a controlled substance in the third degree, criminal possession of a controlled substance in the third degree, and criminal possession of a controlled substance in the seventh degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

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,

December 1, 2009

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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).

DILLON, J.P., FLORIO, MILLER and ANGIOLILLO, 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