

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

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_____AD3d_____

Argued - January 12, 2010

JOSEPH COVELLO, J.P.
FRED T. SANTUCCI
HOWARD MILLER
RANDALL T. ENG, JJ.

2008-01718

DECISION & ORDER

The People, etc., respondent,
v Juan Gonzalez, appellant.

(Ind. No. 6471/07)

Steven Banks, New York, N.Y. (Alan Axelrod and Davis Polk & Wardwell [Peter A. Nelson], of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Jodi L. Mandel, and Goodwin Procter LLP [Matthew T. Tulchin], of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Goldberg, J.), rendered February 19, 2008, convicting him of robbery in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the trial court's *Allen* charge (*see Allen v United States*, 164 US 492) was improper is unpreserved for appellate review (*see CPL 470.05[2]; People v Franklin*, 54 AD3d 964). In any event, contrary to the defendant's contention, the charge, on the whole, was balanced and neutral (*see People v McKenzie*, 48 AD3d 594, 595; *People v Kendrick*, 256 AD2d 420, 421). The court's instructions were directed at the jurors in general, and "did not urge that a dissenting juror abandon his or her own conviction, attempt to coerce or compel the jury to reach a particular verdict, or shame the jury into reaching a verdict" (*People v McKenzie*, 48 AD3d at 595; *see People v Gonzales*, 281 AD2d 432; *People v Perdomo*, 204 AD2d 358).

February 9, 2010

PEOPLE v GONZALEZ, JUAN

Page 1.

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.

COVELLO, J.P., SANTUCCI, MILLER and ENG, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, looping initial "J".

James Edward Pelzer
Clerk of the Court