

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

D26758
O/kmg

_____AD3d_____

Submitted - March 2, 2010

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
HOWARD MILLER
RANDALL T. ENG, JJ.

2008-10000

DECISION & ORDER

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

(Ind. No. 9954/07)

Steven Banks, New York, N.Y. (Allen Fallek of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Diane Eisner of counsel; Rose L. Amandola on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Del Giudice, J.), rendered October 2, 2008, convicting him of criminal sale of a controlled substance in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the evidence was legally insufficient to support his conviction of criminal sale of a controlled substance in the third degree is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Hawkins*, 11 NY3d 484; *People v Finger*, 95 NY2d 894, 895). 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 (*see People v Norwood*, 191 AD2d 519; *People v Griffith*, 171 AD2d 678). Moreover, 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, 495). Upon reviewing the record here, we are satisfied that the verdict of guilt was not against the

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weight of the evidence (*see People v Romero*, 7 NY3d 633).

The defendant's remaining contention is without merit.

RIVERA, J.P., FLORIO, MILLER and ENG, 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