

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

D16654
W/cb

_____AD3d_____

Submitted - September 25, 2007

REINALDO E. RIVERA, J.P.
DAVID S. RITTER
FRED T. SANTUCCI
MARK C. DILLON, JJ.

2005-11986

DECISION & ORDER

The People, etc., respondent,
v Lee Van Glahn, appellant.

(Ind. Nos. 777/02, 2762/02, 2971/04)

Carol Kahn, New York, N.Y., for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Howard B. Goodman of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Lott, J.), rendered November 15, 2005, convicting him of murder in the first degree, murder in the second degree, attempted rape in the first degree, sexual abuse in the first degree, and assault in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant was convicted of murder in the first degree and murder in second degree with respect to the homicides of two prostitutes, respectively, and attempted rape in the first degree, sexual abuse in the first degree, and assault in the second degree of a third prostitute. On appeal, he argues that the evidence was not legally sufficient to sustain his conviction for either murder or for the attempted rape. To the extent that the defendant argues that the evidence was not legally sufficient to prove that he intended to kill Arlene Brumfield, his argument is not preserved for appellate review (*see* CPL 470.05[2]; *People v Johnson*, 22 AD3d 600; *People v Rourke*, 4 AD3d 377). 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

October 23, 2007

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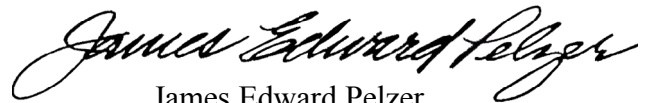
beyond a reasonable doubt as to all of the crimes described above. Moreover, upon the exercise of our factual review power (*see* CPL 470.15[5]), we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

The defendant's remaining contentions are without merit.

RIVERA, J.P., RITTER, SANTUCCI and DILLON, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court