

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

D19847  
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Submitted - June 4, 2008

PETER B. SKELOS, J.P.  
FRED T. SANTUCCI  
JOSEPH COVELLO  
WILLIAM E. McCARTHY  
CHERYL E. CHAMBERS, JJ.

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2007-07964

DECISION & ORDER

The People, etc., respondent,  
v Darren Simpson, appellant.

(Ind. No. 06-01458)

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Helene Migdon Greenberg, Elmsford, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (William C. Milaccio, Richard Longworth Hecht, and Anthony J. Servino of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Westchester County (Molea, J.), rendered June 21, 2007, convicting him of burglary in the third degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that his plea of guilty was not knowing, voluntary, and intelligent is unpreserved for appellate review since he did not move to withdraw his plea on this ground prior to sentencing (*see* CPL 470.05[2]; *People v Toxey*, 86 NY2d 725, 726; *People v LeGrady*, 50 AD3d 1059; *People v Ramsey*, 49 AD3d 565; *People v Herdt*, 45 AD3d 698). In any event, we find that the defendant's plea was knowingly, voluntarily, and intelligently entered (*see* *People v Fiumefreddo*, 82 NY2d 536, 543; *People v Lopez*, 71 NY2d 662; *People v Harris*, 61 NY2d 9, 17).

June 24, 2008

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Contrary to the defendant's contention, the Supreme Court did not improvidently exercise its discretion in failing, sua sponte, to order a competency examination (*see* CPL 730.30[1]; *People v Tortorici*, 92 NY2d 757, 765, *cert denied* 528 US 834; *People v Gelikkaya*, 84 NY2d 456, 459; *People v Armlin*, 37 NY2d 167, 171; *People v Pryor*, 11 AD3d 565; *People v Gomez*, 256 AD2d 356).

SKELOS, J.P., SANTUCCI, COVELLO, McCARTHY and CHAMBERS, 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