

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

D12054  
E/mv

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - June 16, 2006

ROBERT W. SCHMIDT, J.P.  
FRED T. SANTUCCI  
PETER B. SKELOS  
JOSEPH COVELLO, JJ.

2003-08142

DECISION & ORDER

The People, etc., respondent,  
v Robert Summa, appellant.

(Ind. No. 185/02)

Lynn W. L. Fahey, New York, N.Y. (Reyna E. Marder of counsel), for appellant.

Daniel M. Donovan, Jr., District Attorney, Staten Island, N.Y. (Karen F. McGee and Anne Crick of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Richmond County (Rooney, J.), rendered June 5, 2003, convicting him of robbery in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the cumulative effect of misconduct by the prosecutor during summation deprived him of a fair trial and constituted reversible error is without merit. "Although the prosecutor, on more than one occasion during [her] summation, overstepped the bounds of proper advocacy, we conclude that, in light of the overwhelming evidence of guilt, there was no significant probability the jury would have acquitted the defendant had the errors not occurred and thus, he was not deprived thereby of a fair trial" (*People v Trinidad, supra* at 612; *see People v Joseph*, 20 AD3d 435; *People v Williams*, 13 AD3d 660; *People v Oglesby*, 7 AD3d 736; *People v Johnson*, 267 AD2d 403, 403-404; *see also People v Crimmins*, 36 NY2d 230).

October 10, 2006

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

SCHMIDT, J.P., SANTUCCI, SKELOS and COVELLO, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court