

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

D12609  
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\_\_\_\_\_AD3d\_\_\_\_\_

Argued - October 6, 2006

ROBERT W. SCHMIDT, J.P.  
FRED T. SANTUCCI  
WILLIAM F. MASTRO  
STEVEN W. FISHER, JJ.

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2003-03783

DECISION & ORDER

The People, etc., respondent,  
v Joe Thomas, appellant.

(Ind. No. 2383/01)

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Noel M. Ziegler, New York, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Tammy J. Smiley and Ilisa T. Fleischer of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (Brown, J.), rendered April 9, 2003, convicting him of burglary in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, he was not deprived of a fair trial as a result of alleged prosecutorial misconduct (*see People v Andrews*, 30 AD3d 434; *People v Trinidad*, 22 AD3d 612).

Upon the exercise of our factual review power, we are satisfied that the verdict of guilt was not against the weight of the evidence (*see CPL 470.15[5]*; *People v Sanchez*, 267 AD2d 960; *People v Winbush*, 199 AD2d 447).

SCHMIDT, J.P., SANTUCCI, MASTRO and FISHER, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

November 14, 2006

PEOPLE v THOMAS, JOE