

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

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_____AD3d_____

Argued - October 27, 2006

ROBERT W. SCHMIDT, J.P.
WILLIAM F. MASTRO
STEVEN W. FISHER
MARK C. DILLON, JJ.

2004-10975

DECISION & ORDER

The People, etc., respondent,
v Edwin Mendoza, appellant.

(Ind. No. 4628/03)

Lynn W. L. Fahey, New York, N.Y. (Warren S. Landau of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Linda Breen of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Mangano, Jr., J.), rendered November 30, 2004, 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, the police officer's testimony that he conducted a "witness identification" and arrested the defendant after asking the complainant if "that was him" did not constitute impermissible bolstering of the complainant's identification testimony because it was offered for the relevant purpose of establishing the reasons behind the officer's actions and explaining the events which precipitated the defendant's arrest (*see People v Smalls*, 293 AD2d 500, 501; *People v Morgan*, 193 AD2d 467).

The defendant's remaining contention is without merit.

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

ENTER:



James Edward Pelzer
Clerk of the Court

December 5, 2006

PEOPLE v MENDOZA, EDWIN