

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

D15071
X/cb

_____AD3d_____

Argued - April 2, 2007

DAVID S. RITTER, J.P.
FRED T. SANTUCCI
RUTH C. BALKIN
WILLIAM E. McCARTHY, JJ.

2004-08021

DECISION & ORDER

The People, etc., respondent,
v Johnnie R. Townsend, appellant.

(Ind. No. 5645/03)

Steven Banks, New York, N.Y. (William B. Carney of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Diane R. Eisner of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Collini, J.), rendered August 19, 2004, convicting him of burglary in the first degree and attempted robbery in the first degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant asserts that he was deprived of his constitutional right to present a defense when the court struck testimony concerning the victim's HIV status. However, for the reasons discussed in *People v Taylor* (_____AD3d_____ [decided herewith]), any error was harmless beyond a reasonable doubt.

The defendant's remaining contentions are without merit.

RITTER, J.P., SANTUCCI, BALKIN and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

May 8, 2007

PEOPLE v TOWNSEND, JOHNNIE, R.