

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

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Y/cb

_____AD3d_____

Submitted - June 21, 2007

STEPHEN G. CRANE, J.P.
GLORIA GOLDSTEIN
MARK C. DILLON
EDWARD D. CARNI, JJ.

2005-01736

DECISION & ORDER

The People, etc., respondent,
v George Balaz, appellant.

(Ind. No. 8514/03)

Lynn W. L. Fahey, New York, N.Y. (Tonya Plank of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Rhea A. Grob, and Teresa N. Taylor of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Dowling, J.), rendered January 24, 2005, convicting him of burglary in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The evidence established that an individual entered the complainants' apartment without their permission and took money and jewelry. Although one of the complainants saw an unknown individual in her apartment building on the morning of the burglary, she was unable to identify the defendant in a lineup. However, a latent fingerprint was lifted from the complainants' BB-gun which, after the robbery, was discovered lying upon the bed, rather than in its usual place in the bedroom closet. An expert analyzed the latent print and identified the fingerprint as belonging to the defendant.

Viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620), we find that it was legally sufficient to establish the defendant's guilt beyond a reasonable doubt (*see People v Urquidez*, 5 AD3d 800, 801; *People v Hirsch*, 280 AD2d 612, 613).

September 11, 2007

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Moreover, upon the exercise of our factual review power (*see* CPL 470.15[5]), we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Hirsch, supra* at 613).

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

CRANE, J.P., GOLDSTEIN, DILLON and CARNI, 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