

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

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Submitted - October 22, 2007

STEPHEN G. CRANE, J.P.  
GLORIA GOLDSTEIN  
ANITA R. FLORIO  
MARK C. DILLON, JJ.

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2004-06004

DECISION & ORDER

The People, etc., respondent,  
v Robert E. Thompson, appellant.

(Ind. No. 03-00683)

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Randall Richards, Bronxville, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Jennifer Spencer, Richard Longworth Hecht, and Anthony J. Servino of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Westchester County (Zambelli, J.), rendered June 8, 2004, convicting him of grand larceny in the first degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The County Court properly rejected the defendant's argument that the indictment was barred by the statute of limitations (*see* CPL 30.10[2][b]), since he failed to make a timely motion to dismiss the indictment (*see* CPL 255.10[1], 255.20[1]; *People v Bones*, 17 AD3d 689, 691), and in any event, the argument was without merit (*see People v Rosich*, 170 AD2d 703).

The County Court properly granted the People's unopposed application to take the then-96-year-old complainant's testimony at a conditional examination (*see* CPL 660.10 *et seq.*). Moreover, the Supreme Court properly admitted into evidence the videotape and transcript of the witness's testimony, including the defendant's lengthy cross-examination (*see* CPL 670.10[1], 670.20[1]).

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The defendant's *Batson* challenge (*see Batson v Kentucky*, 476 US 79) was properly denied. The reasons proffered by the prosecutor for the questioned peremptory challenges were race-neutral. The defendant failed to carry his ultimate burden of demonstrating discrimination by showing that these reasons were pretextual (*see People v Wells*, 7 NY3d 51, 58; *People v Smocum*, 99 NY2d 418, 422; *People v Allen*, 86 NY2d 101, 104, 110).

The County Court providently exercised its discretion in time-limiting the defense counsel's jury voir dire, since he was provided a fair opportunity to ask relevant and material questions (*see CPL 270.15[1][c]*; *People v Jean*, 75 NY2d 744, 745; *People v Wheeler*, 268 AD2d 448, 449).

Contrary to the defendant's contention, the prosecutor's summation comments were, for the most part, proper (*see People v Russo*, 201 AD2d 512, 513, *affd* 85 NY2d 872). In any event, the allegedly improper comments constituted harmless error (*see People v Crimmins*, 36 NY2d 230, 242).

The defendant's argument alleging ineffective assistance of counsel is without merit (*see People v Baldi*, 54 NY2d 137, 151-152).

The sentence imposed was not excessive (*see People v Thompson*, 60 NY2d 513, 519; *People v Suite*, 90 AD2d 80).

The defendant's remaining contentions are without merit.

CRANE, J.P., GOLDSTEIN, FLORIO and DILLON, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court