

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

D19156
C/prt

_____AD3d_____

Submitted - April 8, 2008

STEVEN W. FISHER, J.P.
DAVID S. RITTER
ANITA R. FLORIO
EDWARD D. CARNI, JJ.

2006-08480

DECISION & ORDER

The People, etc., respondent,
v Michael Bornhoeft, appellant.

(Ind. No. 06-00227)

John P. Savoca, White Plains, N.Y., for appellant.

Francis D. Phillips II, District Attorney, Goshen, N.Y. (Daniel M. Reback of counsel),
for respondent.

Appeal by the defendant from a judgment of the County Court, Orange County (DeRosa, J.), rendered August 18, 2006, convicting him of burglary in the third degree, aggravated cruelty to animals (four counts), criminal mischief in the fourth degree, and criminal trespass in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

In fulfilling our responsibility to conduct an independent review of the weight of the evidence (*see People v Danielson*, 9 NY3d 342; CPL 470.15[5]), we nevertheless accord great deference to the jury's opportunity to view the witnesses, hear the testimony, and observe demeanor (*see People v Mateo*, 2 NY3d 383, 410, *cert denied* 542 US 946; *People v Bleakley*, 69 NY2d 490, 495). Upon reviewing the record here, we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

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

FISHER, J.P., RITTER, FLORIO and CARNI, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

July 29, 2008

PEOPLE v BORNHOEFT, MICHAEL