

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

D20153  
Y/hu

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - June 16, 2008

REINALDO E. RIVERA, J.P.  
ROBERT A. LIFSON  
FRED T. SANTUCCI  
HOWARD MILLER, JJ.

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2006-09954

DECISION & ORDER

The People, etc., respondent,  
v Jason Grant, appellant.

(Ind. No. 5817/05)

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Lynn W. L. Fahey, New York, N.Y. (Steven R. Bernhard of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Amy Appelbaum, and A. Brendan Stewart of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Chun, J.), rendered October 16, 2006, convicting him of burglary in the first degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

With one exception, the defendant's claims of prosecutorial misconduct are unpreserved for appellate review (*see* CPL 470.05[2]). With respect to the only preserved issue, the court clearly instructed the jury that the burden of proof remained with the People and did not shift to the defendant (*see People v Farino*, 21 AD3d 427). In any event, as to the unpreserved issues, the challenged remarks either were a fair response to the defendant's summation (*see People v Galloway*, 54 NY2d 396), or constituted harmless error (*see People v Crimmins*, 36 NY2d 230, 242; *People v Adam*, 50 AD3d 1153, *lv denied* 10 NY3d 931).

RIVERA, J.P., LIFSON, SANTUCCI and MILLER, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

September 16, 2008

PEOPLE v GRANT, JASON