

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

D21547  
O/kmg

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Submitted - November 20, 2008

WILLIAM F. MASTRO, J.P.  
HOWARD MILLER  
RUTH C. BALKIN  
WILLIAM E. McCARTHY, JJ.

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2005-09546

DECISION & ORDER

The People, etc., respondent,  
v Kaydon Baskerville, appellant.

(Ind. No. 05-00546)

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Richard N. Lentino, Middletown, N.Y., for appellant.

Francis D. Phillips II, District Attorney, Goshen, N.Y. (Luke E. Bovill and Andrew R. Kass of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Orange County (DeRosa, J.), rendered September 29, 2005, convicting him of criminal possession of stolen property in the third degree and unauthorized use of a motor vehicle in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

To preserve a claim that the court improperly denied a “for cause” challenge to a prospective juror, a defendant must exhaust all of his peremptory challenges before the selection of the jury is complete (*see* CPL 270.20[2]; *People v Lynch*, 95 NY2d 243, 248). Here, the defendant failed to do so, and accordingly the argument is unpreserved for appellate review (*see* CPL 270.25[2][c]). In any event, the challenged prospective alternate juror unambiguously stated that his prior experience with crime would not impact his ability to render a fair verdict (*see People v LaValle*, 3 NY3d 88, 103).

Contrary to the defendant’s contention, the County Court properly declined to deliver a full circumstantial evidence charge since there was some direct evidence of the defendant’s guilt (*see People v Roldan*, 88 NY2d 826; *People v McCoy*, 30 AD3d 441).

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The defendant's general challenge to comments made by the prosecutor during summation is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Applewhite*, 50 AD3d 1046). In any event, the prosecutor's comments in summation were fair comment on the evidence (*see People v Ashwal*, 39 NY2d 105).

Upon our independent review pursuant to CPL 470.15(5), we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

The defendant's remaining contentions are unpreserved for appellate review and, in any event, are without merit.

MASTRO, J.P., MILLER, BALKIN and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court