

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

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____AD3d____

Argued - June 4, 2009

ROBERT A. SPOLZINO, J.P.
DANIEL D. ANGIOLILLO
CHERYL E. CHAMBERS
PLUMMER E. LOTT, JJ.

2007-01329

DECISION & ORDER

The People, etc., respondent,
v James Polin, appellant.

(Ind. No. 109/06)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Jodi L. Mandel, and Tania T. Taveras of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Mangano, Jr., J.), rendered January 4, 2007, convicting him of burglary in the first degree (two counts), assault in the second degree (two counts), endangering the welfare of a child, and resisting arrest, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, the prosecutor's comments during summation were either fair comment on the evidence, responsive to the defense counsel's summation, or not so egregious as to have denied the defendant a fair trial (*see People v Halm*, 81 NY2d 819, 821; *People v Galloway*, 54 NY2d 396, 399; *People v Bailey*, 54 AD3d 419, 420).

The defendant's remaining contention is without merit.

SPOLZINO, J.P., ANGIOLILLO, CHAMBERS and LOTT, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

June 30, 2009

PEOPLE v POLIN, JAMES