

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

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**KA 06-02148**

PRESENT: MARTOCHE, J.P., SMITH, CENTRA, FAHEY, AND PINE, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

BILLY G. WILLIAMS, DEFENDANT-APPELLANT.

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FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (GERALD T. BARTH OF COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (VICTORIA M. WHITE OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Onondaga County Court (Joseph E. Fahey, J.), rendered June 5, 2006. The judgment convicted defendant, upon a jury verdict, of burglary in the second degree, petit larceny, criminal possession of a controlled substance in the third degree, criminal possession of a controlled substance in the fourth degree and criminal possession of a controlled substance in the seventh degree.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting him upon a jury verdict of, inter alia, burglary in the second degree (Penal Law § 140.25 [2]) and criminal possession of a controlled substance in the third degree (§ 220.16 [1]). Defendant contends that County Court's response to a question from the jury during deliberations was improper. Defendant agreed to the court's proposed response, however, and thus waived his present contention (see generally *People v Barner*, 30 AD3d 1091, lv denied 7 NY3d 809; *People v Hicks*, 12 AD3d 1044, lv denied 4 NY3d 799). We reject the further contention of defendant that he was denied the right to effective assistance of counsel based on the failure of defense counsel to challenge the legal sufficiency of the evidence on specific grounds and to make certain objections. Rather, viewing defense counsel's representation as a whole, we conclude that defendant received effective assistance of counsel (see generally *People v Baldi*, 54 NY2d 137, 147). Finally, viewing the evidence in light of the elements of the crimes as charged to the jury (see *People v Danielson*, 9 NY3d 342, 349), we conclude that the verdict is not against the weight of the evidence (see generally *People v Bleakley*, 69 NY2d 490, 495).

Entered: April 24, 2009

Patricia L. Morgan  
Deputy Clerk of the Court