

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

D19518  
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Submitted - April 29, 2008

PETER B. SKELOS, J.P.  
DAVID S. RITTER  
ANITA R. FLORIO  
THOMAS A. DICKERSON, JJ.

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2006-00383

DECISION & ORDER

The People, etc., respondent,  
v Isaac Bones, appellant.

(Ind. No. 05-00481)

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Mitchell J. Baker, White Plains, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Laurie Sapakoff, Richard Longworth Hecht, and Anthony J. Servino of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Westchester County (Adler, J.), rendered December 15, 2005, convicting him of burglary in the third degree and petit larceny, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620), we find that it was legally sufficient to establish the defendant's guilt of burglary in the third degree beyond a reasonable doubt. Contrary to the defendant's contention, the evidence was sufficient to prove that he entered the complainant's store unlawfully (*see Penal Law* § 140.20).

The defendant's contention that the trial court erred in allowing a police detective to testify that he had grown up in the area and was familiar with the defendant is unpreserved for appellate review (*see CPL* 470.05). In any event, the trial court properly permitted the testimony as the evidence was relevant to the issue of identity and did not necessarily implicate the defendant in prior uncharged criminal conduct (*see People v Reid*, 259 AD2d 505, 506).

June 3, 2008

PEOPLE v BONES, ISAAC

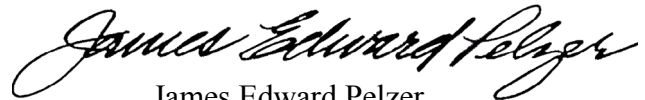
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The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

The defendant's contention that the mandatory surcharge should have been waived is unpreserved for appellate review and, in any event, is without merit (*see* CPL 420.35[2]; *People v Domin*, 13 AD3d 391, 392; *People v Owens*, 10 AD3d 619).

SKELOS, J.P., RITTER, FLORIO and DICKERSON, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court