

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

**464**

**KA 07-01140**

PRESENT: SCUDDER, P.J., SMITH, PERADOTTO, LINDLEY, AND SCONIERS, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

MICHAEL D. BRYANT, DEFENDANT-APPELLANT.

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TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (WILLIAM CLAUSS OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (KELLY CHRISTINE WOLFORD OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Monroe County (Joseph D. Valentino, J.), rendered February 28, 2007. The judgment convicted defendant, upon a jury verdict, of burglary in the first degree, attempted robbery in the first degree, criminal possession of a weapon in the second degree, criminal possession of a weapon in the third degree (two counts) and reckless endangerment in the first degree.

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

Memorandum: On appeal from a judgment convicting him of, *inter alia*, burglary in the first degree (Penal Law § 140.30 [1]), defendant contends that Supreme Court erred in admitting certain evidence at trial because it was obtained directly or indirectly in violation of his physician-patient privilege (see CPLR 4504 [a]). We reject that contention. "[E]ven if there was a violation of the physician-patient privilege, the suppression of the evidence found as a result is not required. The physician-patient privilege is based on statute, not the State or Federal Constitution . . . [and] a violation of a statute does not, without more, justify suppressing the evidence to which that violation leads" (*People v Greene*, 9 NY3d 277, 280; see *People v Drayton*, 56 AD3d 1278, 1278-1279, appeal dismissed 13 NY3d 902). The further contention of defendant that the court improperly limited his cross-examination of a prosecution witness is also without merit. "It is well settled that '[t]he scope of cross-examination is within the sound discretion of the trial court' " (*People v Baker*, 294 AD2d 888, 889, *lv denied* 98 NY2d 708). Here, the record establishes that defendant was given wide latitude in cross-examining the witness

in question, and the court limited the cross-examination in merely a single instance that could not have affected the outcome of the trial.

Entered: May 7, 2010

Patricia L. Morgan  
Clerk of the Court