

Rule 13(5) Application for an Extension of Time  
to File a Writ of Certiorari

**Exhibit A**

---

**Appellate Division, Third Department's Order**

---

**No. of Pages: 04**

**Dated: 12/27/18**

## WESTLAW

## People v. Shamsuddin

Supreme Court, Appellate Division, Third Department, New York. December 27, 2018 167 A.D.3d 1334 90 N.Y.S.3d 376 2018 N.Y. Slip Op. 08974 (Approx. 8 pages)

[View New York Official Reports version](#)

167 A.D.3d 1334

Supreme Court, Appellate Division, Third Department, New York.

The PEOPLE of the State of New York, Respondent,

v.

Latif SHAMSUDDIN, Appellant.

110161

Calendar Date: November 16, 2018

Decided and Entered: December 27, 2018

**Synopsis**

**Background:** Defendant was convicted in the County Court, Albany County, Carter, J., of burglary in the second degree, and sentenced, as second felony offender, to a prison term of 11 years to be followed by five years of postrelease supervision. Defendant appealed.

**Holdings:** The Supreme Court, Appellate Division, Egan Jr., J., held that:

- 1 jury finding that defendant had requisite intent to commit crime at time of entry into hotel room was supported by legally sufficient evidence and was not against the weight of evidence;
- 2 prosecutor's statements during summation did not deprive defendant of fair trial; and
- 3 sentence was not abuse of discretion.

Affirmed.

Appellate Review Sentencing or Penalty Phase Motion or Objection Trial or Guilt Phase Motion or Objection.

**West Headnotes (7)**[Change View](#)**1 Burglary**  Intent

Jury finding that defendant had requisite intent to commit crime at time of entry into hotel room, as element of burglary in the second degree, was supported by legally sufficient evidence and was not against the weight of evidence; although defendant testified that he decided to steal guitar on spur of moment upon leaving hotel room, evidence showed that defendant was homeless and using crack cocaine when he entered hotel, and, after stealing \$1500 guitar, sold guitar for \$45 to employee at nearby tattoo shop. N.Y. Penal Law § 140.25(2).

**2 Criminal Law**  Construction in favor of government, state, or prosecution**Criminal Law**  Reasonable doubt

When reviewing a legal sufficiency claim, Supreme Court, Appellate Division, determines whether the evidence, viewed in the light most favorable to the People, could lead a rational trier of fact to conclude that each and every element of the charged crime had been proven beyond a reasonable doubt.

1 Case that cites this headnote

**3 Burglary**  Presumptions and burden of proof

Burglary defendant's intent may be inferred from the circumstances of his or her unlawful entry, unexplained presence on the premises, and actions and statements when confronted by police or the property owner. N.Y. Penal Law § 140.25(2).

**4 Criminal Law**  Particular statements, comments, and arguments**Criminal Law**  Comments on Evidence or Witnesses**Criminal Law**  Summing up

**Criminal Law**  Comments on evidence or witnesses

Prosecutor's statements during summation of burglary trial did not deprive defendant of fair trial; although prosecutor commented on defendant's failure to provide corroboration regarding his reason for being in building, the comments did not serve to shift the burden of proof to defendant, other statements constituted fair comment on evidence or were otherwise responsive to defense counsel's summation, trial court subsequently instructed the jury that prosecution maintained the burden of establishing defendant's guilt beyond a reasonable doubt, and cumulative effect of the challenged comments was not so prejudicial as to deny defendant his fundamental right to a fair trial.

1 Case that cites this headnote

**5 Criminal Law**  Statements as to Facts, Comments, and Arguments

In determining whether a reversal is warranted based on prosecutor misconduct during summation, Supreme Court, Appellate Division, assesses the severity and frequency of the conduct, whether the trial court took appropriate action to dilute the effect of the conduct, and whether, from a review of the evidence, it can be said that the result would have been the same absent such conduct.

**6 Criminal Law**  Statements as to Facts, Comments, and Arguments

Not every improper comment made by the prosecuting attorney during the course of closing arguments warrants reversal of the underlying conviction.

1 Case that cites this headnote

**7 Burglary**  Sentence and Punishment

**Sentencing and Punishment**  Nature, degree, or seriousness of other misconduct

**Sentencing and Punishment**  Substance abuse and addiction

Sentencing court did not abuse its discretion in sentencing defendant to prison term of 11 years, upon conviction in prosecution for burglary in the second degree, despite defendant's substance abuse issues; where sentence was below maximum sentence allowable by law, and defendant had lengthy criminal history, including four prior burglary convictions.

**Attorneys and Law Firms**

\*\*377 Hug Law, PLLC, Albany (Matthew C. Hug of counsel), for appellant.

P. David Soares, District Attorney, Albany (Vincent Stark of counsel), for respondent.

Before: Garry, P.J., McCarthy, Egan Jr., Devine and Clark, JJ.

**MEMORANDUM AND ORDER**

Egan Jr., J.

\*\*378 \*1334 Appeal from a judgment of the County Court of Albany County (Carter, J.), rendered September 1, 2017, upon a verdict convicting defendant of the crime of burglary in the second degree.

In September 2016, defendant was charged in an indictment with burglary in the second degree after he entered a guest room at the Hilton Hotel in the City of Albany and stole a guitar. Following a jury trial, defendant was convicted as charged and was thereafter sentenced, as a second felony offender, to a prison term of 11 years to be followed by five years of postrelease supervision. Defendant now appeals.

1 2 3 Defendant initially contends that the verdict was not supported by legally sufficient evidence and was against the weight of the evidence. Specifically, defendant argues that the People failed to establish that he had the requisite intent to commit a crime at the time that he entered the victim's hotel room. When reviewing a legal sufficiency claim, "we must determine whether the evidence, viewed in the light most favorable to the People, could lead a rational trier of fact to conclude that each and every element of the charged crime had been proven beyond a reasonable doubt" (*People v. Pierce*, 106 A.D.3d 1198, 1199, 964 N.Y.S.2d 307 [2013]; see *People v. Bleakley*, 69 N.Y.2d 490, 495, 515 N.Y.S.2d

761, 508 N.E.2d 672 [1987] ). As relevant here, "[a] person is guilty of burglary in the second degree when he [or she] knowingly enters ... unlawfully [a dwelling] with intent to commit a crime therein" (Penal Law § 140.25[2]).<sup>1</sup> Notably, a defendant's "[i]ntent may be inferred from the circumstances of [his or her] unlawful entry, unexplained \*1335 presence on the premises, and actions and statements when confronted by police or the property owner" (*People v. Briggs*, 129 A.D.3d 1201, 1203, 13 N.Y.S.3d 255 [2015], *lv denied* 26 N.Y.3d 1038, 22 N.Y.S.3d 167, 43 N.E.3d 377 [2015]; see *People v. Jackson*, 151 A.D.3d 1466, 1467–1468, 58 N.Y.S.3d 218 [2017], *lv denied* 30 N.Y.3d 950, 67 N.Y.S.3d 134, 89 N.E.3d 524 [2017]; *People v. Peterson*, 118 A.D.3d 1151, 1152, 988 N.Y.S.2d 271 [2014], *lv denied* 24 N.Y.3d 1087, 1 N.Y.S.3d 14, 25 N.E.3d 351 [2014] ).

The evidence introduced at trial established that, on August 15, 2016, defendant, then homeless, estranged from his spouse and using crack cocaine, walked into the Hilton Hotel and took an elevator to the fourth floor. After finding the door to room 410 ajar, defendant entered, only to encounter a member of the hotel's housekeeping staff cleaning the room. After explaining to the housekeeper that he needed to use the bathroom, the housekeeper indicated that he could and left. While inside the room, defendant spotted a Gibson guitar belonging to the room's occupant, picked it up and left the hotel. Defendant walked to a nearby tattoo shop and sold the guitar to an employee for \$45. Later that day, the buyer grew suspicious that the purchase was "too good to be true" and went to visit a friend who owned a guitar shop. After being advised that \*\*379 the instrument was a genuine Gibson guitar worth at least \$1,500, the buyer contacted the police. Defendant was thereafter arrested.

Defendant, who testified at trial, readily admits that he stole the guitar in question, but contends that he is not guilty of the crime of burglary in the second degree because his decision to steal the guitar was not made until after he had entered room 410. According to him, he entered the hotel, not with the intent to steal but hoping to encounter his estranged wife, who worked in an adjoining office building. According to defendant, he stepped into the elevator intending to go down, but another occupant had already pushed the button to go up, so he remained on the elevator and got off with everyone else on the fourth floor. He then realized he needed to use the bathroom, saw a guest room with an open door and asked the housekeeper in that room if he could use the room's bathroom; after he did, he saw the guitar as he was leaving and, on the spur of the moment, decided to steal it. According to defendant, his intent to steal formed only after his entry into room 410 and, therefore, he cannot be guilty of burglary in the second degree.

Viewing the evidence in a light most favorable to the People, we find that there was legally sufficient evidence presented from which a rational jury could infer, beyond a reasonable doubt, that defendant entered the subject hotel room with the requisite intent to commit a crime (see \*1336 *People v. Castillo*, 47 N.Y.2d 270, 277–278, 417 N.Y.S.2d 915, 391 N.E.2d 997 [1979]; *People v. Gilligan*, 42 N.Y.2d 969, 969, 398 N.Y.S.2d 269, 367 N.E.2d 867 [1977]; *People v. Carter*, 50 A.D.3d 1318, 1320, 856 N.Y.S.2d 270 [2008], *lv denied* 10 N.Y.3d 957, 863 N.Y.S.2d 141, 893 N.E.2d 447 [2008] ). Moreover, although a different verdict would not have been unreasonable, viewing the evidence in a neutral light, and giving deference to the jury's interpretation of the evidence and the rational inferences to be drawn therefrom, we are satisfied that defendant's conviction was not against the weight of the evidence (see *People v. Bleakley*, 69 N.Y.2d at 495, 515 N.Y.S.2d 761, 508 N.E.2d 672; *People v. Mesko*, 150 A.D.3d 1412, 1413–1414, 55 N.Y.S.3d 748 [2017], *lv denied* 29 N.Y.3d 1131, 64 N.Y.S.3d 681, 86 N.E.3d 573 [2017]; *People v. Judware*, 75 A.D.3d 841, 845, 906 N.Y.S.2d 139 [2010], *lv denied* 15 N.Y.3d 853, 909 N.Y.S.2d 30, 935 N.E.2d 822 [2010]; *People v. Thornton*, 4 AD3d 561, 563, 771 N.Y.S.2d 597 [2004], *lv denied* 2 N.Y.3d 808, 781 N.Y.S.2d 307, 814 N.E.2d 479 [2004] ).

4 5 6 We find unpersuasive defendant's contention that he was deprived of a fair trial as a result of certain comments made by the prosecutor during summation. "In determining whether a reversal is warranted on this ground, we must assess the severity and frequency of the conduct, whether the trial court took appropriate action to dilute the effect of the conduct and whether, from a review of the evidence, it can be said that the result would have been the same absent such conduct" (*People v. Hartle*, 159 A.D.3d 1149, 1153, 72 N.Y.S.3d 639 [2018] [internal quotation marks and citations omitted], *lv denied* 31 N.Y.3d 1082, 79 N.Y.S.3d 104, 103 N.E.3d 1251 [2018] ). Notably, "not every improper comment made by the prosecuting attorney during the course of closing arguments warrants reversal of the underlying conviction" (*People v. Forbes*, 111 A.D.3d 1154, 1160, 975 N.Y.S.2d 490 [2013] ). Here, although the prosecutor made certain comments during his summation regarding defendant's failure to provide corroboration of the fact that his wife

actually worked in the building adjacent to the Hilton Hotel, said comments did not serve \*\*380 to shift the burden of proof (see *People v. Tout-Puissant*, 155 A.D.3d 654, 655, 63 N.Y.S.3d 507 [2017], *Iv denied* 30 N.Y.3d 1120, 77 N.Y.S.3d 345, 101 N.E.3d 986 [2018]; *People v. Gaston*, 135 A.D.3d 575, 576, 23 N.Y.S.3d 232 [2016], *Iv denied* 28 N.Y.3d 929, 40 N.Y.S.3d 358, 63 N.E.3d 78 [2016]; *People v. Youmans*, 292 A.D.2d 647, 648, 738 N.Y.S.2d 756 [2002], *Iv denied* 98 N.Y.2d 704, 747 N.Y.S.2d 423, 776 N.E.2d 12 [2002] ). The remaining allegedly improper comments by the prosecutor were either sustained by County Court, constituted a fair comment on the evidence or were otherwise responsive to defense counsel's summation, questioning the credibility of the People's witnesses (see *People v. Williams*, 163 A.D.3d 1160, 1165, 80 N.Y.S.3d 547 [2018]; *People v. Harris*, 162 A.D.3d 1240, 1243, 79 N.Y.S.3d 336 [2018], *Iv denied* 32 N.Y.3d 937, 84 N.Y.S.3d 864, 109 N.E.3d 1164 [2018] ), such that "the record as a whole fails to disclose that the prosecutor engaged in a flagrant and pervasive pattern of prosecutorial misconduct so as to deprive defendant of a fair trial" (*People v. Devictor-Lopez*, 155 A.D.3d 1434, 1437, 66 N.Y.S.3d 346 [2017] [internal quotation marks and citations omitted] ). Moreover, \*1337 County Court subsequently instructed the jury that the People maintained the burden of establishing defendant's guilt beyond a reasonable doubt. Given the overwhelming proof of defendant's guilt, the cumulative effect of the challenged comments was not so prejudicial as to deny defendant his fundamental right to a fair trial, and we cannot say that the jury would not have convicted defendant but for the prosecutor's comments (see *People v. Harris*, 162 A.D.3d at 1243, 79 N.Y.S.3d 336; *People v. Ressy*, 141 A.D.3d 839, 843, 35 N.Y.S.3d 762 [2016], *Iv denied* 28 N.Y.3d 1030, 45 N.Y.S.3d 382, 68 N.E.3d 111 [2016]; *People v. Robinson*, 16 A.D.3d 768, 770, 790 N.Y.S.2d 586 [2005], *Iv denied* 4 N.Y.3d 856, 797 N.Y.S.2d 430, 830 N.E.2d 329 [2005]; compare *People v. Rupnarine*, 140 A.D.3d 1204, 1205, 33 N.Y.S.3d 494 [2016]; *People v. Casanova*, 119 A.D.3d 976, 977-979, 988 N.Y.S.2d 713 [2014] ).

7 Lastly, although cognizant of defendant's apparent substance abuse issues, we note that County Court expressly took this factor into consideration in electing not to mete out the maximum sentence allowable by law. Moreover, given defendant's lengthy criminal history, which includes, among other offenses, four prior burglary convictions, we find no abuse of discretion or extraordinary circumstances that warrant a reduction of defendant's sentence in the interest of justice (see *People v. Cole*, 162 A.D.3d 1219, 1224, 78 N.Y.S.3d 783 [2018], *Iv denied* 32 N.Y.3d 1002, 86 N.Y.S.3d 761, 111 N.E.3d 1117 [2018]; *People v. Williams*, 156 A.D.3d 1224, 1231, 69 N.Y.S.3d 367 [2017], *Iv denied* 31 N.Y.3d 1018, 78 N.Y.S.3d 288, 102 N.E.3d 1069 [2018] ).

ORDERED that the judgment is affirmed.

Garry, P.J., McCarthy, Devine and Clark, JJ., concur.

#### All Citations

167 A.D.3d 1334, 90 N.Y.S.3d 376, 2018 N.Y. Slip Op. 08974

#### Footnotes

1 The manner in which the subject indictment was drafted specifically limited the allegation of burglary in the second degree to whether defendant "knowingly enter[ed] unlawfully" room 410 of the subject hotel.

End of  
Document

© 2019 Thomson Reuters. No claim to original U.S. Government Works.

**Rule 13(5) Application for an  
Extension of Time to File a Writ of  
Certiorari**

**Exhibit**

**C**

---

**New York State Court of Appeals denial of Discretionary leave**

---

**No. of Pages: 01**

**Dated: 03/11/19**

State of New York  
Court of Appeals

RECEIVED  
MAR 28 2019

Hug Law, PLLC

BEFORE: HONORABLE PAUL G. FEINMAN  
Associate Judge

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-against-

LATIF SHAMSUDDIN,

Appellant.

CORRECTED  
ORDER  
DENYING  
LEAVE

Appellant having applied for leave to appeal to this Court pursuant to Criminal Procedure Law § 460.20 from an order in the above-captioned case;\*

UPON the papers filed and due deliberation, it is

ORDERED that the application is denied.

Dated: March 11, 2019



Associate Judge

\*Description of Order: Order of the Appellate Division, Third Department, entered December 27, 2018, affirming a judgment of County Court, Albany County, rendered September 1, 2017.

**Rule 13(5) Application for an  
Extension of Time to File a Writ of  
Certiorari**

**Exhibit B**

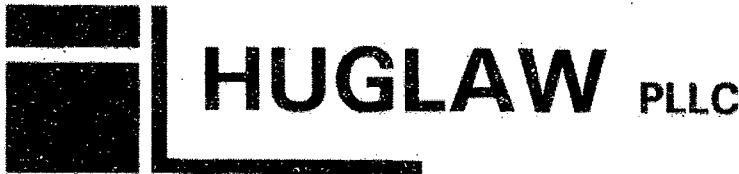
---

**My Appellate counsel's discretionary leave application to  
New York State's Court of Appeals**

---

**No. of Pages: 06**

**Dated: 01/15/19**



January 15, 2019

VIA REGULAR U.S. MAIL

Chief Judge Janet DiFiore  
New York Court of Appeals  
Attn: John P. Asiello, Clerk of Court  
20 Eagle Street  
Albany, New York 12207-1095

RE: THE PEOPLE OF THE STATE OF NEW YORK v. LATIF SHAMSUDDIN  
APPELLATE DIVISION, THIRD DEPT. CASE NO.: 110161

Dear Hon. Janet DiFiore,

This is an application pursuant to CPL § 460.20 and 22 NYCRR 500.10 for a certificate granting leave to appeal to the Court of Appeals from a Memorandum and Order of the New York State Supreme Court, Appellate Division, Third Department (Docket No.: 110161) decided and entered on December 27, 2018, which affirmed the judgment of the County Court of Albany County (Carter, J.) rendered September 1, 2017, upon a verdict convicting him of the crime of burglary in the second degree. Notice of entry has not been served. Insofar as this letter application is being filed and served within thirty (30) days from the date of the Memorandum and Order, it is submitted that it is timely. *See*, CPL § 460.10[5][a]. There have not been any changes to the parties. And all arguments raised herein have been properly preserved and raise issues of statewide importance.

Page Two

January 15, 2019

*People v. Shamsuddin*

Accompanying this letter motion are the following documents:

1. Memorandum and Order of the NYS Supreme Court, Appellate Division, Third Department.
2. Appellant's Brief and Appendix
3. Respondent's Brief and Appendix

This case demands that this Court restores and settles the modicum of legally sufficient proof a prosecution must present in order to establish the "knowingly entered unlawfully" element of the crime of burglary in the second degree. In order to be found guilty of burglary in the second degree, the prosecution must prove, beyond a reasonable doubt, that the accused knowingly enters a dwelling with intent to commit a crime therein. *See*, Penal Law § 140.25(2). As the Appellate Division properly found, the indictment specifically limited the allegation of burglary in the second degree to whether the defendant knowingly entered unlawfully and did not allege that he unlawfully remained; as such their proof rose or fell on whether they proved unlawful entry. It is the definition of knowingly entered unlawfully that was explored in this case.

The evidence presented at trial demonstrated that appellant was homeless, estranged from his life, and had recently relapsed back into a lifelong crack cocaine addiction. (*A. 88-93*). On August 15, 2016, appellant walked into the Hilton Hotel in the City of Albany. He testified that he chose to enter the hotel because he desperately needed to use the bathroom and the hotel was adjacent to the building where his wife worked, and he was hoping to see her at the end of her shift. (*A. 93, 95*). Appellant was trying to find the public bathroom but could not find it. (*A. 95-96*). He approached a bank of elevators and pressed the button. An elevator door opened, and he entered

Page Three

January 15, 2019

*People v. Shamsuddin*

along with a number of other people. (A. 95-96). It was not until he was on the elevator that he realized that this car was going up. (A. 95-96).

When the door opened on the fourth floor, he disembarked along with other guests. Immediately beside the elevator was hotel room number 410. (A. 63). The door to the room was ajar and the room was being cleaned by the housekeeper. (A. 97). Appellant asked the housekeeper if he could get into the room in order to use the bathroom. (A. 97). The housekeeper advised him that it was not generally permitted, but that she would allow him to use it. (A. 97). The housekeeper exited the hotel room after appellant entered and closed the door behind her. Appellant used the bathroom. (A. 98-99).

When he emerged from the bathroom, he saw a guitar case wedged between one of the beds and the wall. (A. 98-99). At that moment, appellant decided to take it. He walked out of the room with the guitar case and left the hotel. Fearful that he would get caught with the stolen property, appellant walked down South Pearl St. (a largely commercial city street in the City of Albany) in search of a buyer. (A. 99). Appellant entered a tattoo parlor and asked if anyone wanted to purchase his guitar for \$45.00. (A. 71-72, 101-102). An employee of the tattoo parlor accepted the offer, and later had the guitar appraised. That evening, she was advised that the guitar was valued at \$1,500.00. (A. 70-72). This caused her to suspect that the guitar had been stolen and she called the police to inquire. (A. 72-73). The guitar was returned to its rightful owner the next day. Following an investigation - that included reviewing video recordings from the hotel showing a male walking with a guitar case - appellant was charged with burglary in the second degree.

Page Four

January 15, 2019

*People v. Shamsuddin*

The primary issue is whether the proof was legally sufficient to prove that appellant knowingly entered room 410 unlawfully with the intent to commit a crime therein. It is black letter law that in order to be guilty of burglary based upon the element of unlawful entry, the prosecution must prove that the defendant possessed an intent to commit a crime therein contemporaneously with the entry. *See, People v. Brown*, 87 N.Y.2d 950 (1996); *People v. Gaines*, 74 N.Y.2d 358, 363 (1989); *People v. Simmons*, 111 A.D.3d 975, 979 (3<sup>rd</sup> Dept. 2013); *People v. Beauvais*, 105 A.D.3d 1081, 1084 (3<sup>rd</sup> Dept. 2013).

Whereas here, if the proof failed to show that appellant possessed an intent to steal at the time he entered the room in order to use the bathroom, the conviction is not based upon legally sufficient evidence. *See, People v. Mercado*, 294 A.D.2d 805 (4<sup>th</sup> Dept. 2002); *People v. Feerick*, 241 A.D.2d 126, 141 (1<sup>st</sup> Dept. 1998); *People v. Gilmore*, 243 A.D.2d 726, 727 (2<sup>nd</sup> Dept. 1997); *People v. Mercedes*, 234 A.D.2d 144, 145-146 (1<sup>st</sup> Dept. 1996); *People v. Gonzalez*, 221 A.D.2d 203 (1<sup>st</sup> Dept. 1995).

The Appellate Division affirmed the judgment of conviction finding that it could be inferred from the evidence that appellant possessed an intent to commit a crime inside the hotel room when he entered; that crime being to steal. But there is no evidence to support such an inference, unless the element is to lose all meaning. It was definitively established that appellant entered the hotel room in order to use the bathroom; this was testified to by both the housekeeper (testifying on behalf of the prosecution) and appellant. The proof also definitively established that room 410 was immediately beside the elevator, and its door was ajar while the housekeeper was

Page Five

January 15, 2019

*People v. Shamsuddin*

cleaning the room. The proof also showed that the guitar appellant ultimately stole, was not visible from outside the room, as it was wedged between the bed and the wall. When appellant asked to use the bathroom, there was no proof that there was anything inside the room that could have been stolen. And, there was no evidence that appellant knew that the hotel room was still occupied as opposed to undergoing cleaning services on a vacant or recently vacated room. The proof did not show that appellant was lurking around the hotel room, prior to entering room 410, looking for guest rooms with items he could steal.

An inference that an individual possessed an intent to commit a crime upon entry must be based upon something more than that a crime was ultimately committed. And there is nothing here to infer appellant's intent to commit a crime at the moment he asked the housekeeper to permit him to use the bathroom. The diminishment of this critical element by the lower court should be addressed, as it significantly reduces the People's burden beyond what the legislature could have intended. Appellant may have been guilty of a larceny (that was uncharged) but he was not guilty – on this evidence – of burglary in the second degree. This Court should reaffirm the necessity of demonstrating – with proof – that an individual harbored an intent to commit a crime at the moment of entry; it is not appropriate to convict an individual of burglary in the second degree if this intent was not formed until after the entry had been made.

In addition, appellant requests that this Court also review the argument that he was deprived of his federal and state right to a fair trial due to prosecutorial misconduct during summations. Contrary to the Appellate Division's decision, the prosecutor repeatedly shifted the

Page Six

January 15, 2019

*People v. Shamsuddin*

burden of proof, maligned appellant's counsel, vouched for the credibility of their own witnesses, and attacking the truthfulness of appellant's testimony. All of these comments were improper and served to deprive appellant of a fair trial. This Court should grant appellant's motion seeking leave to appeal, in order to remind prosecutor's that their role is to seek justice and not to obtain a conviction at all cost.

It is respectfully submitted that this Court should grant leave to appeal with respect to all arguments raised before the Appellate Division, as contained in the attached brief.

Yours, etc.  
Matthew C. Hug, Esq.

