

COURT OF APPEAL FOR ONTARIO

**RE: HER MAJESTY THE QUEEN (Respondent) – and – EMAD
ELGUINDY (Appellant)**

BEFORE: MACPHERSON, SIMMONS and CRONK JJ.A.

**COUNSEL: Emad Elguindy
 in-person**

**Michal Fairburn
 for the respondent**

HEARD February 23, 2004

On appeal from the summary conviction appeal judgment of Justice John R. Belleghem of the Superior Court of Justice dismissing the appeal of the conviction entered on May 1, 2003 and the sentence given on August 7, 2003 by Justice Steven R. Clark of the Ontario Court of Justice.

APPEAL BOOK ENDORSEMENT

[1] The appellant contends that Crown counsel's reference to him before he arrived in court was prejudicial. We disagree. It was innocuous.

[2] He also contends that he was misled by four independent lawyers who mistakenly urged him not to testify on his own behalf. The fact that the appellant relied on the legal advice he received hardly renders his trial unfair.

[3] The appellant contends that the trial judge misapplied the definition of theft in s. 322 of the *Code*, that he failed to deal properly with conflicting evidence and that the conviction was unsafe and unreasonable. We disagree. The trial judge's reasons are full, careful and fair.

[4] The appellant contends that there was inadequate disclosure of two of the three video tapes entered as exhibits. However, the transcript discloses that at the trial the appellant explicitly agreed to the admission of the tapes.

[5] The appeal is dismissed.

“J. C. MacPherson J.A.”

“Janet M. Simmons J.A.”

“E. A. Cronk J.A.”