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Buffalo man acquitted in Elmwood Avenue robbery

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A Buffalo man accused of robbing a man last year outside a bank in the Elmwood Village was acquitted Wednesday by an Erie County Court jury that deliberated for more than eight hours over two days.

James Thomas, 45, was found not guilty of first-degree robbery in the June 13, 2013 holdup outside the former First Niagara Bank at Elmwood and Potomac avenues.

Defense attorney Paul G. Dell said the victim was accosted by a man in a rain slicker during a downpour. They grappled for a few minutes, the attorney said, and the robber, armed with a knife, took his cash, then ran to a car and drove away.

The victim ended up with the knife, which he held for five or 10 minutes before he left it with an attorney he knew who had an office across the street, Dell said. The knife was turned over to police.

DNA on the knife was later matched to Thomas, who was arrested on the robbery charge Nov. 12, 2013, but the victim's DNA was not found on the weapon, because the rain prevented it from affixing to the handle or washed it off, according to Dell.

The defense attorney argued that the rain also prevented the actual robber's DNA from getting on the knife and that Thomas' DNA could have been deposited on it years before and could have dried onto the porous, wooden handle, preventing the rain from removing it.

Dell said police stopped his client a few days after the robbery in the getaway car. Police then showed the victim a photo array that included Thomas, he said, but the victim failed to pick him as the robber.

The defense attorney said the robber was described as an Hispanic male who was 5 feet, 10 inches tall, very thin and about 30 years old; his client is a white male who is 5 feet, 7 inches tall and not thin. He was 43 at the time of the holdup.

Thomas did not testify during the trial before Judge Sheila A. DiTullio.

He had been held in lieu of \$150,000 bail but was released after his acquittal.

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