

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

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Submitted - October 24, 2006

HOWARD MILLER, J.P.
DAVID S. RITTER
FRED T. SANTUCCI
ROBERT J. LUNN, JJ.

2004-06857

DECISION & ORDER

The People, etc., respondent,
v Maurice Collier, appellant.

(Ind. No. 2652/02)

Lynn W. L. Fahey, New York, N.Y. (Sarah J. Berger of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Johnnette Traill, and Frances Impellizzeri of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Spires, J.), rendered August 2, 2004, convicting him of robbery in the first degree (two counts), attempted robbery in the second degree (two counts), and unlawful imprisonment in the second degree (two counts), upon a jury verdict, and imposing sentence. The appeal brings up for review the denial, after a hearing, of that branch of the defendant's omnibus motion which was to suppress identification testimony.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, he was not deprived of his right to counsel at an investigatory lineup (*see People v Wilson*, 89 NY2d 754; *People v LaClere*, 76 NY2d 670; *People v Coates*, 74 NY2d 244). The factual findings and credibility determinations of a hearing court are entitled to great deference on appeal, and will not be disturbed unless clearly unsupported

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by the record (*see People v Ortiz*, 31 AD3d 580). Here, the court's determinations were supported by the record. Thus, the court properly denied that branch of the defendant's omnibus motion which was to suppress the identification testimony.

MILLER, J.P., RITTER, SANTUCCI and LUNN, 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