

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

D13117
O/cb

_____AD3d_____

Argued - November 2, 2006

HOWARD MILLER, J.P.
GABRIEL M. KRAUSMAN
STEVEN W. FISHER
MARK C. DILLON, JJ.

2006-00661

DECISION & ORDER

The People, etc., appellant, v Edgar Posada
and Diego Ercoli, respondents.

(Ind. No. 1312/05)

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

Howard R. Teichner, Kew Gardens, N.Y., for respondent Edgar Posada.

William McDonald, Kew Gardens, N.Y., for respondent Diego Ercoli.

Appeal by the People from an order of the Supreme Court, Queens County (Grosso,
J.), dated December 15, 2005, which, after a hearing, granted the defendants' separate omnibus
motions to suppress physical evidence recovered from the defendants' possession and statements
made by the defendants to the police.

ORDERED that the order is affirmed.

The People's contention on appeal was waived in the suppression court, and thus may
not be raised now (*see People v Dodt*, 61 NY2d 408, 416; *see also People v Johnson*, 64 NY2d 617,
619 n 2).

MILLER, J.P., KRAUSMAN, FISHER and DILLON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

January 16, 2007

PEOPLE v POSADA, EDGAR AND ERCOLI, DIEGO