

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

D15517
G/gts

_____AD3d_____

Submitted - May 4, 2007

ROBERT W. SCHMIDT, J.P.
REINALDO E. RIVERA
DANIEL D. ANGIOLILLO
RUTH C. BALKIN, JJ.

2005-01461

DECISION & ORDER

The People, etc., respondent,
v Joseph Norman, appellant.

(Ind. No. 2933/04)

Steven Banks, New York, N.Y. (Robert Bunder of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Victor Barall,
and Dominick Barbieri of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Brennan, J.), rendered January 26, 2005, convicting him of robbery in the first degree, assault in the second degree, criminal possession of stolen property in the first degree, and criminal possession of a controlled substance in the seventh degree, 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 evidence.

ORDERED that the judgment is affirmed.

The Supreme Court properly denied that branch of the defendant's omnibus motion which was to suppress identification evidence. The showup procedure, which was conducted in close spatial and temporal proximity to the commission of the crime for the purpose of securing a prompt and reliable identification, was not unduly suggestive (*see People v Duuvon*, 77 NY2d 541, 544; *People v Loo*, 14 AD3d 716).

The defendant's contention that he was prejudiced by the trial court's refusal to incorporate certain language into the identification charge is without merit. The charge as given was

June 12, 2007

Page 1.

PEOPLE v NORMAN, JOSEPH

balanced and sufficiently set forth both the factors to be considered in assessing the veracity of the identification testimony and the fact that identity must be proven beyond a reasonable doubt (*see People v Wright*, 292 AD2d 638).

SCHMIDT, J.P., RIVERA, ANGIOLILLO and BALKIN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, stylized initial "J".

James Edward Pelzer
Clerk of the Court