

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

D17415  
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Argued - December 3, 2007

STEPHEN G. CRANE, J.P.  
REINALDO E. RIVERA  
ANITA R. FLORIO  
RUTH C. BALKIN, JJ.

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2005-07096

DECISION & ORDER

The People, etc., respondent,  
v Larry McNeil, appellant.

(Ind. No. 5117/04)

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Steven Banks, New York, N.Y. (Harold V. Ferguson, Jr., of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Thomas M. Ross of counsel; Miro Lati on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Konviser, J.), rendered July 14, 2005, convicting him of criminal sale of a controlled substance in the third degree and criminal possession of a controlled substance in the third degree, upon a jury verdict, and imposing sentence. The appeal brings up for review the denial, after a hearing (Leventhal, J.), of that branch of the defendant's omnibus motion which was to suppress physical evidence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, there was a sufficient basis for the hearing court to conclude that the police possessed probable cause to arrest the defendant (*see People v DeBour*, 40 NY2d 210, 223; *People v Jackson*, 282 AD2d 473, 473-474). Nothing in the record supports the defendant's contention that the testimony of the arresting detective at the hearing was incredible or patently tailored to nullify constitutional objections (*see People v James*, 19 AD3d 617, 618). Accordingly, the hearing court properly denied that branch of the defendant's omnibus motion which was to suppress the physical evidence.

January 8, 2008

PEOPLE v McNEIL, LARRY

Page 1.

The defendant's remaining contention is unpreserved for appellate review and we decline to review it in the exercise of our interest of justice jurisdiction.

CRANE, J.P., RIVERA, FLORIO and BALKIN, 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