

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

D19760
X/prt

_____AD3d_____

Argued - May 23, 2008

FRED T. SANTUCCI, J.P.
DANIEL D. ANGIOLILLO
RANDALL T. ENG
CHERYL E. CHAMBERS, JJ.

2005-01522

DECISION & ORDER

The People, etc., respondent,
v Michael Curry, appellant.

(Ind. No. 04-00169)

Laura G. Weiss, Pearl River, N.Y., for appellant, and appellant pro se.

Thomas P. Zugibe, District Attorney, New City, N.Y. (Carrie A. Ciganek of counsel),
for respondent.

Appeal by the defendant from a judgment of the County Court, Rockland County (Resnik, J.), rendered January 4, 2005, convicting him of criminal possession of a controlled substance in the first degree, criminal possession of a controlled substance in the third degree, and unlawful possession of marihuana, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620), we find that it was legally sufficient to establish the defendant's guilt beyond a reasonable doubt (*see People v Leyva*, 38 NY2d 160, 169; *People v Gonzales*, 235 AD2d 493; *People v Green*, 133 AD2d 170, 173).

Moreover, resolution of issues of credibility is primarily a matter to be determined by the jury, which saw and heard the witnesses, and its determination should be accorded great deference on appeal (*see People v Romero*, 7 NY3d 633, 644-645; *People v Mateo*, 2 NY3d 383, 410 *cert denied* 542 US 946). Upon the exercise of our factual review power (*see* CPL 470.15[5]), we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633; *People v Williams*, 301 AD2d 794, 796; *People v Green*, 133 AD2d at 173-174; *People*

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v Garafolo, 44 AD2d 86, 88).

The defendant's contention in his supplemental pro se brief that the trial court erred in failing to give an accomplice-corroboration charge to the jury is unpreserved for appellate review, since the defendant did not request such a charge and failed to object to the charge as given (*see People v Forino*, 39 AD3d 664, 665; *People v Edwards*, 28 AD3d 491, 492; *People v Odior*, 242 AD2d 308, 309). Under the circumstances, we decline to exercise our interest of justice jurisdiction to review this contention (*see People v Ortiz*, 215 AD2d 408; *People v Mahan*, 195 AD2d 881, 882; *People v Walker*, 87 AD2d 725, 726).

In his supplemental pro se brief, the defendant also contends that he was denied meaningful representation by defense counsel's failure to request an accomplice-corroboration charge. Viewing the record as a whole, however, the defendant received meaningful representation (*see People v Henry*, 95 NY2d 563, 566).

The defendant's remaining contention, raised in his supplemental pro se brief, is unpreserved for appellate review.

SANTUCCI, J.P., ANGIOLILLO, ENG and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Cour