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

D19929
O/kmg

_____AD3d_____ Submitted - May 29, 2008

REINALDO E. RIVERA, J.P.
STEVEN W. FISHER
ROBERT A. LIFSON
MARK C. DILLON, JJ.

2007-03641 DECISION & ORDER

The People, etc., respondent,
v Kevin Shippy, appellant.

(Ind. No. 1276/06)

Joseph Faraguna, Sag Harbor, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Andrea M. DiGregorio and Valentina M. Tejera of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (Donnino, J.), rendered April 12, 2007, convicting him of criminal possession of a controlled substance in the third degree (two counts), criminal possession of a controlled substance in the seventh degree, obstructing governmental administration in the second degree, criminal mischief in the fourth degree, and a violation of Vehicle and Traffic Law § 1111(d)(1), upon his plea of guilty, and imposing sentence. The appeal brings up for review the denial, after a hearing (Calabrese, J.), of those branches of the defendant's omnibus motion which were to suppress physical evidence and his statements made to law enforcement officials.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, the police had probable cause to arrest him (*see People v Frazier*, 33 AD3d 934, 935; *People v Britz*, 239 AD2d 428, 429). The defendant was not entitled to suppression of the bag of cocaine that the police recovered after he abandoned it (*see People v Martinez*, 80 NY2d 444, 448-449; *People v Wilson*, 5 AD3d 408, 409). Further, the Supreme Court properly determined that the defendant's inculpatory statements, some of which were spontaneous, were all voluntarily made to the police after he received *Miranda* warnings (*see*

Miranda v Arizona, 384 US 436) and waived his rights (*see People v Howard*, 60 NY2d 999, 1001; *People v Santos*, 38 AD3d 574, 575; *People v Davis*, 32 AD3d 445, 445–446).

Finally, by pleading guilty, the defendant forfeited his right to the review of his claim that the People's CPL 710.30 notice was insufficient (*see People v Taylor*, 65 NY2d 1, 3). In any event, no notice of the photographic identification was required, since evidence of the photographic identification was not admissible at trial on the People's case-in-chief (*see People v Grajales*, 8 NY3d 861, 862).

RIVERA, J.P., FISHER, LIFSON and DILLON, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court