

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

D21452  
G/kmg

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Submitted - November 21, 2008

PETER B. SKELOS, J.P.  
FRED T. SANTUCCI  
MARK C. DILLON  
JOSEPH COVELLO, JJ.

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2006-10519

DECISION & ORDER

The People, etc., respondent,  
v Kashone Cooks, appellant.

(Ind. No. 341/06)

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Steven A. Feldman, Uniondale, N.Y. (Arza Feldman of counsel), for appellant.

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

Appeal by the defendant from a judgment of the Supreme Court, Nassau County (Donnino, J.), rendered October 25, 2006, convicting him of criminal possession of a controlled substance in the third degree and criminal possession of a weapon in the third degree, upon his plea of guilty, and imposing sentence. The appeal brings up for review the denial, after a hearing (Peck, J.), of that branch of the defendant's omnibus motion which was to suppress physical evidence.

ORDERED that the judgment is affirmed.

The defendant seeks to vacate his plea of guilty by challenging the Supreme Court's denial, made after an evidentiary hearing, of that branch of his omnibus motion which was to suppress physical evidence. The "credibility determinations of a hearing court are accorded great deference on appeal and will not be disturbed unless clearly unsupported by the record" (*People v Umadat*, 29 AD3d 830, 830; *see People v Bhattacharjee*, 51 AD3d 684; *People v Wynter*, 48 AD3d 492). Here, according deference to the credibility determinations of the hearing court, it cannot be said that the detective's testimony at the pretrial *Mapp/Dunaway* hearing (*see Mapp v Ohio*, 367 US 643; *Dunaway v New York*, 442 US 200) was incredible as a matter of law, patently tailored to nullify

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constitutional objections, or otherwise unworthy of belief (*see People v Rivera*, 27 AD3d 489, 490; *People v Curry*, 213 AD2d 664).

SKELOS, J.P., SANTUCCI, DILLON and COVELLO, 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