

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

D23435
Y/prt

_____AD3d_____

Submitted - March 20, 2009

WILLIAM F. MASTRO, J.P.
MARK C. DILLON
JOSEPH COVELLO
THOMAS A. DICKERSON, JJ.

2005-11060

DECISION & ORDER

The People, etc., respondent,
v Maurice Shakespeare, appellant.

(Ind. No. 7487/04)

Steven Banks, New York, N.Y. (Martin M. Lucente of counsel), for appellant, and appellant pro se.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Shulamit R. Nemec, and Maria Park of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Gary, J.), rendered November 9, 2005, convicting him of criminal possession of a weapon in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the evidence was legally insufficient to support his conviction of criminal possession of a weapon in the third degree is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Hawkins*, 11 NY3d 484, 492; *People v Gray*, 86 NY2d 10, 20). In any event, 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. Moreover, upon our independent review pursuant to 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).

The defendant's contention, raised in his supplemental pro se brief, that he was denied the effective assistance of counsel, involves matter dehors the record which cannot be reviewed on

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direct appeal (*see People v Holland*, 44 AD3d 874; *People v Zimmerman*, 309 AD2d 824; *People v Carlisle*, 272 AD2d 477; *People v Boyd*, 244 AD2d 497).

The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80, 83).

To the extent that the defendant seeks declaratory relief, such relief is not available (*cf.* CPL 470.15[1], [2]).

MASTRO, J.P., DILLON, COVELLO and DICKERSON, 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