

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

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Submitted - May 18, 2009

ROBERT A. SPOLZINO, J.P.
DANIEL D. ANGIOLILLO
CHERYL E. CHAMBERS
L. PRISCILLA HALL, JJ.

2007-09464

DECISION & ORDER

The People, etc., respondent,
v John L. Gaines, appellant.

(Ind. No. 2344-06)

Stephen N. Preziosi, Smithtown, N.Y., for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Glenn Green of counsel), for respondent.

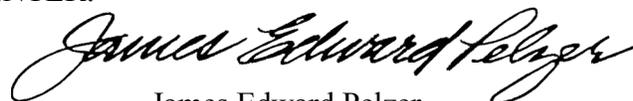
Appeal by the defendant from a judgment of the County Court, Suffolk County (Gazzillo, J.), rendered September 7, 2007, convicting him of criminal sale of a controlled substance in the third degree (three counts) and criminal possession of a controlled substance in the third degree (three counts), upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

By pleading guilty, the defendant forfeited his right to review of the denial of his motion to suppress certain identification testimony based on the People's failure to give him notice of an alleged photographic identification (*see People v Taylor*, 65 NY2d 1, 3; *People v Shippy*, 53 AD3d 590; *see also People v Konieczny*, 2 NY3d 569, 572; *People v Roper*, 25 AD3d 628).

SPOLZINO, J.P., ANGIOLILLO, CHAMBERS and HALL, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

June 21, 2009

PEOPLE v GAINES, JOHN L.