

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

D25280
O/kmg

_____AD3d_____

Submitted - November 9, 2009

REINALDO E. RIVERA, J.P.
HOWARD MILLER
THOMAS A. DICKERSON
SHERI S. ROMAN, JJ.

2006-06195

DECISION & ORDER

The People, etc., respondent,
v Rasheke Boyd, appellant.

(Ind. No. 2495/05)

Joseph F. Kilada, Garden City, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Tammy J. Smiley, Andre K. Cizmarik, and Paul E. Dans of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Nassau County (Sullivan, J.), rendered June 14, 2006, convicting him of attempted murder in the second degree (two counts), robbery in the first degree (four counts), attempted robbery in the first degree, assault in the first degree (two counts), and assault in the second degree, upon his plea of guilty, and imposing sentence. The appeal brings up for review the denial, after a hearing (Honorof, J.), of that branch of the defendant's omnibus motion which was to suppress physical evidence.

ORDERED that the judgment is affirmed.

The defendant's contention that the police did not have probable cause to stop his car is unpreserved for appellate review, as the defendant did not raise this claim at the suppression hearing (*see People v McNair*, 45 AD3d 872; *People v Rogers*, 34 AD3d 504). In any event, the stop of the defendant's vehicle was lawful. “[A]s a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred” (*People v Sluszka*, 15 AD3d 421, 423, quoting *People v Robinson*, 97 NY2d 341, 348-349). The police officer’s testimony established that he had probable cause to stop the defendant after he

December 8, 2009

Page 1.

PEOPLE v BOYD, RASHEKE

observed the defendant driving through a red light (*see* Vehicle and Traffic Law § 1111).

RIVERA, J.P., MILLER, DICKERSON and ROMAN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style with a large initial "J".

James Edward Pelzer
Clerk of the Court