

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

D26206
C/kmg

_____AD3d_____

Argued - January 22, 2010

FRED T. SANTUCCI, J.P.
THOMAS A. DICKERSON
CHERYL E. CHAMBERS
SANDRA L. SGROI, JJ.

2007-09577
2007-09604

DECISION & ORDER

The People, etc., respondent,
v Allan Townsend, appellant.

(Ind. No. 2555/06)

Lynn W. L. Fahey, New York, N.Y. (Orrick, Herrington & Sutcliffe LLP, New York, N.Y. [Peter A. Bick and Emily J. Green], of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Jeanette Lifschitz, and Jennifer S. Michael of counsel), for respondent.

Appeals by the defendant from (1) a judgment of the Supreme Court, Queens County (Hollie, J.), rendered September 25, 2007, convicting him of assault in the second degree and criminal possession of a weapon in the fourth degree, upon a jury verdict, and imposing sentence, and (2) a resentence of the same court imposed October 9, 2007.

ORDERED that the judgment and the resentence are affirmed.

Contrary to the defendant's contention, the trial court's *Sandoval* ruling (*see People v Sandoval*, 34 NY2d 371) struck an appropriate balance between the probative value of the defendant's prior crimes and the possible prejudice to the defendant (*see People v Springer*, 13 AD3d 657, 658). The fact that several of the defendant's convictions were approximately 20 years old does not, in and of itself, require the preclusion of those convictions for purposes of impeachment (*see People v Springer*, 13 AD3d 658). Similarly, inquiry into the defendant's drug-related offenses need not be precluded on the basis of his alleged drug addiction (*see People v Hall*, 99 AD2d 843). The court precluded inquiry into the underlying facts of those prior offenses which involved the use of a

weapon, and therefore were most prejudicial to the defendant. The defendant's previous convictions were probative in evaluating his credibility, and thus the court's *Sandoval* ruling was proper (see *People v Hines*, 3 AD3d 580; *People v Williams*, 292 AD2d 474, 475; *People v Clarke*, 265 AD2d 566).

The defendant's contention that he was deprived of a fair trial by the Supreme Court's examination of witnesses and other conduct during trial is unpreserved for appellate review (see *People v DeNormand*, 1 AD3d 1047, 1048; *People v Manigault*, 297 AD2d 754; *People v Orsini*, 246 AD2d 674; *People v Gonzalez*, 183 AD2d 783) and, in any event, is without merit (see *People v DeNormand*, 1 AD3d at 1048; *People v Todd*, 306 AD2d 504; *People v Collado*, 277 AD2d 393; *People v Hartzog*, 263 AD2d 492).

SANTUCCI, J.P., DICKERSON, CHAMBERS and SGROI, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court