

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

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_____AD3d_____

Submitted - February 1, 2010

JOSEPH COVELLO, J.P.
HOWARD MILLER
THOMAS A. DICKERSON
ARIEL E. BELEN, JJ.

2008-05916

DECISION & ORDER

The People, etc., respondent,
v Deval Cobb, appellant.

(Ind. No. 10207/07)

Lynn W. L. Fahey, New York, N.Y. (Anna Pervukhin of counsel), for appellant.

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

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Latella, J.), rendered June 9, 2008, convicting him of criminal possession of a controlled substance in the fifth degree, upon a jury verdict, and imposing sentence. The appeal brings up for review the denial, after a hearing, of that branch of the defendant's omnibus motion which was to suppress physical evidence.

ORDERED that the judgment is affirmed.

“The credibility determinations of a hearing court are entitled to great deference on appeal, and will not be disturbed unless clearly unsupported by the record” (*People v Moran*, 68 AD3d 786, 787, quoting *People v Martinez*, 58 AD3d 870, 870-871). Contrary to the defendant's contention, the testimony of the police detective at the suppression hearing was not incredible, patently tailored to nullify constitutional objections, or otherwise unworthy of belief (*see People v Cooks*, 57 AD3d 796, 797; *People v Cherry*, 46 AD3d 834, 834; *People v Hay*, 37 AD3d 494, 494; *People v Rivera*, 27 AD3d 489, 490).

Furthermore, the hearing court's determination that the police possessed probable

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cause to arrest the defendant was adequately supported by the record (*see People v Soto*, 63 AD3d 512, 512-513; *People v Scott-Heron*, 11 AD3d 364, 364; *People v Brown*, 193 AD2d 612, 613; *People v Guine*, 173 AD2d 849, 849). Accordingly, the Supreme Court properly denied that branch of the defendant's omnibus motion which was to suppress physical evidence.

COVELLO, J.P., MILLER, DICKERSON and BELEN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court