

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

D27859
C/hu

_____AD3d_____

Submitted - June 1, 2010

STEVEN W. FISHER, J.P.
PLUMMER E. LOTT
LEONARD B. AUSTIN
SANDRA L. SGROI, JJ.

2008-00327

DECISION & ORDER

The People, etc., respondent,
v Derrick Gordon, appellant.

(Ind. No. 2797/06)

Lynn W. L. Fahey, New York, N.Y. (Joshua M. Levine of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Camille O'Hara Gillespie of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Hall, J.), rendered December 10, 2007, convicting him of robbery in the first degree, upon a jury verdict, and imposing sentence. The appeal brings up for review the denial, after a hearing, of those branches of the defendant's omnibus motion which were to suppress his statements to law enforcement officials and identification testimony.

ORDERED that the judgment is affirmed.

The defendant's contention that his confession to the police was involuntary on the ground that it was induced by trickery is without merit, since there was no indication "that the deception was so fundamentally unfair as to deny due process . . . or that a promise or threat was made that could induce a false confession" (*People v Tarsia*, 50 NY2d 1, 11; see *People v Pereira*, 26 NY2d 265, 269; *People v McQueen*, 18 NY2d 337, 346; *People v Stokes*, 233 AD2d 194; *People v Ingram*, 208 AD2d 561; *People v Jordan*, 193 AD2d 890, 892; *People v Foster*, 193 AD2d 692,

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693). Further, the lineup identification was not unduly suggestive (*see People v Chipp*, 75 NY2d 327, 336, *cert denied* 498 US 833; *People v Villacreses*, 12 AD3d 624, 625; *People v Pointer*, 253 AD2d 500).

FISHER, J.P., LOTT, AUSTIN and SGROI, 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