

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

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_____AD3d_____

Submitted - September 8, 2008

REINALDO E. RIVERA, J.P.
HOWARD MILLER
DANIEL D. ANGIOLILLO
CHERYL E. CHAMBERS, JJ.

2007-02957

DECISION & ORDER

The People, etc., respondent,
v Dennis Trotter, appellant.

(Ind. No. 1382/05)

Lynn W. L. Fahey, New York, N.Y. (Barry Stendig of counsel), for appellant, and appellant pro se.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Jeanette Lifschitz, Muhammad Ikhlas, and Rebecca Kramer of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Kohm, J.), rendered February 27, 2007, convicting him of criminal possession of a weapon in the third degree (two counts), upon his plea of guilty, and imposing sentence. The appeal brings up for review an order of the same court (Aloise, J.) dated December 5, 2006, which denied, without a hearing, the defendant's renewed branch of his omnibus motion which was to suppress physical evidence. By decision and order of this Court dated September 30, 2008 (*see People v Trotter*, 54 AD3d 1065), the appeal was held in abeyance, and the matter was remitted to the Supreme Court, Queens County, to hear and report on the defendant's renewed branch of his omnibus motion which was to suppress physical evidence. The Supreme Court has filed its report.

ORDERED that the judgment is affirmed.

Following a hearing, the Supreme Court properly concluded that the People established a "very high degree of probability" that normal police procedures would have led to recovery of the gun from the defendant's bedroom independently of a prior, illegally-obtained

statement (*see People v Turriago*, 90 NY2d 77, 86; *People v Hunter*, 56 AD3d 684, 684; *People v Hardy*, 5 AD3d 792, 792-793). Accordingly, the Supreme Court properly denied the defendant's renewed branch of his omnibus motion which was to suppress physical evidence.

The defendant's remaining contentions, including those raised in his supplemental pro se brief, are without merit.

RIVERA, J.P., MILLER, ANGIOLILLO and CHAMBERS, 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