

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

D30138  
O/kmb

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - January 24, 2011

PETER B. SKELOS, J.P.  
THOMAS A. DICKERSON  
LEONARD B. AUSTIN  
JEFFREY A. COHEN, JJ.

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2007-10537

DECISION & ORDER

The People, etc., respondent,  
v Waymon Dawkins, appellant.

(Ind. No. 2809/05)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Amy Appelbaum, Marie-Claude P. Wrenn-Myers, and Phyllis Mintz of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (J. Goldberg, J.), rendered October 22, 2007, convicting him of attempted murder 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 statements he made to law enforcement officials, identification testimony, and physical evidence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention in his pro se supplemental brief, the hearing court properly denied that branch of his omnibus motion which was to suppress statements he made to law enforcement officials after he was advised of his *Miranda* rights (*see Miranda v Arizona*, 384 US 436). The credibility determinations of the Supreme Court following a suppression hearing are entitled to great deference on appeal and will not be disturbed unless clearly unsupported by the record (*see People v Contant*, 77 AD3d 967). Here, there was sufficient evidence to support the Supreme Court's conclusion that the defendant's statements were not involuntary (*see People v*

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*Gega*, 74 AD3d 1229).

The defendant's contention, also raised in his pro se supplemental brief, that he was deprived of the effective assistance of counsel is, in part, based on matter dehors the record and, thus, cannot be reviewed on direct appeal (*see People v Ariza*, 77 AD3d 844). To the extent that the defendant's contention is not based on matter dehors the record, the defendant received the effective assistance of counsel (*id.*).

The defendant's claim that the Supreme Court unduly interfered with the proceedings is without merit (*see People v Thompson*, 54 AD3d 975, 976).

The defendant's argument, included in his pro se supplemental brief, that he was deprived of a fair trial due to prosecutorial misconduct during summation, is unpreserved for appellate review (*see People v Perez*, 77 AD3d 974, 974). In any event, any error resulting from the challenged remarks was harmless (*id.*).

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

SKELOS, J.P., DICKERSON, AUSTIN and COHEN, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court