

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

D30312
H/kmb

_____AD3d_____

Submitted - January 28, 2011

WILLIAM F. MASTRO, J.P.
RUTH C. BALKIN
JOHN M. LEVENTHAL
ROBERT J. MILLER, JJ.

2007-05796

DECISION & ORDER

The People, etc., respondent,
v Okechukwu Amaobi, appellant.

(Ind. No. 428/06)

Lynn W. L. Fahey, New York, N.Y. (Melissa S. Horlick of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Johnnette Traill, and Gretchen Robinson of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Aloise, J.), rendered May 22, 2007, convicting him of criminal possession of a weapon in the second degree and criminal possession of a weapon in the third 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.

Contrary to the defendant's contentions, the Supreme Court properly denied that branch of his omnibus motion which was to suppress physical evidence. The police pursuit of the defendant and subsequent recovery of a handgun were based on police observations that the defendant was committing a crime and then fled when the police approached him (*see People v Holmes*, 81 NY2d 1056, 1057-1058; *People v Wynn*, 25 AD3d 576, 577).

March 8, 2011

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The sentence imposed was not excessive (*see People v Delgado*, 80 NY2d 780, 783).

MASTRO, J.P., BALKIN, LEVENTHAL and MILLER, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court