

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

D30370
O/prt

_____AD3d_____

Argued - February 15, 2011

DANIEL D. ANGIOLILLO, J.P.
CHERYL E. CHAMBERS
LEONARD B. AUSTIN
ROBERT J. MILLER, JJ.

2010-06197

DECISION & ORDER

The People, etc., respondent, v
John Brucciani, appellant.

(Ind. No. 09-00470)

Gerard & Weissmann, Chestnut Ridge, N.Y. (William A. Gerard of counsel), for appellant.

Thomas P. Zugibe, District Attorney, New City, N.Y. (Itamar J. Yeger of counsel; Amanda B. Haberman on the brief), for respondent.

Appeal by the defendant from a judgment of the County Court, Rockland County (Nelson, J.), rendered June 8, 2010, convicting him of criminal possession of marijuana in the second degree, upon his plea of guilty, 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 contention, the County Court properly denied that branch of his omnibus motion which was to suppress the physical evidence seized from his apartment pursuant to a search warrant. Although the defendant challenges the reliability of the hearsay information provided by a confidential informant in the search warrant application, that application amply demonstrated the informant's reliability. The application recited that the confidential informant was registered with the Rockland County Narcotics Task Force (hereinafter the Task Force) and had been working with the Task Force since March 2009. Moreover, the application also recited, inter

March 15, 2011

PEOPLE v BRUCCIANI, JOHN

Page 1.

alia, that the informant, wearing an electronic listening and recording device, made two controlled buys of marijuana and attempted a third buy, all while under police supervision and surveillance, and police investigators were able to substantially corroborate key details of the transactions through their own observations (see *People v Vargas*, 72 AD3d 1114, 1115-1116; *People v Tarver*, 292 AD2d 110, 115; *People v Keyes*, 291 AD2d 571; *People v Williams*, 247 AD2d 415, 416; *People v Lavere*, 236 AD2d 809; *People v Davenport*, 231 AD2d 809,810; *People v Miner*, 126 AD2d 798, 799-800). Accordingly, the search warrant was properly upheld as valid.

ANGIOLILLO, J.P., CHAMBERS, AUSTIN and MILLER, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan
Clerk of the Court