

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

D32932
H/kmb

_____AD3d_____

Submitted - November 1, 2011

MARK C. DILLON, J.P.
RUTH C. BALKIN
JOHN M. LEVENTHAL
ARIEL E. BELEN, JJ.

2008-10089

DECISION & ORDER

The People, etc., respondent,
v Edward Perry, appellant.

(Ind. No. 10795/06)

Lynn W. L. Fahey, New York, N.Y. (Leila Hull of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Jeannette Lifschitz, and Tina Grillo of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Blumenfeld, J.), rendered October 3, 2008, convicting him of criminal sale of a controlled substance in the third degree, after a nonjury trial, and imposing sentence.

ORDERED that the judgment is affirmed.

In fulfilling our responsibility to conduct an independent review of the weight of the evidence (*see* CPL 470.15[5]; *People v Danielson*, 9 NY3d 342), we nevertheless accord great deference to the factfinder's opportunity to view the witnesses, hear the testimony, and observe demeanor (*see People v Mateo*, 2 NY3d 383, 410, *cert denied* 542 US 946; *People v Bleakley*, 69 NY2d 490, 495). Upon reviewing the record here, we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633). The evidence adduced at trial supported a finding that the defendant was not actively induced and was predisposed to commit the offense charged (*see People v Gordon*, 72 AD3d 841, 842; *People v Wicht*, 48 AD3d 491; *People v Castro*, 299 AD2d 557).

DILLON, J.P., BALKIN, LEVENTHAL and BELEN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court

November 15, 2011

PEOPLE v PERRY, EDWARD