

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

D33447
Y/ct

_____AD3d_____

Argued - December 1, 2011

MARK C. DILLON, J.P.
ANITA R. FLORIO
CHERYL E. CHAMBERS
ROBERT J. MILLER, JJ.

2007-08040

DECISION & ORDER

The People, etc., respondent,
v Craig Black, appellant.

(Ind. No. 1377/06)

Lynn W. L. Fahey, New York, N.Y. (Joshua M. Levine of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Jodi L. Mandel, and Meg D. Holzer of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Heffernan, Jr., J.), rendered July 30, 2007, convicting him of criminal sale of a controlled substance in the third degree and criminal possession of a controlled substance in the seventh degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

“A criminal defendant has a fundamental constitutional right to present witnesses in his or her own defense” (*People v Pitt*, 84 AD3d 1275, 1276; *see Chambers v Mississippi*, 410 US 284, 302). “Moreover, ‘[a] [trial] court’s discretion in evidentiary rulings is circumscribed by the rules of evidence and the defendant’s constitutional right to present a defense’” (*People v Pitt*, 84 AD3d at 1276, quoting *People v Carroll*, 95 NY2d 375, 385; *see People v Diaz*, 85 AD3d 1047, 1050; *People v Ocampo*, 28 AD3d 684, 685). However, a defendant’s right to present a defense is not absolute (*see People v Hayes*, 17 NY3d 46, 53, *cert denied* _____US_____, 2011 WL 3295435[2011]; *People v Williams*, 81 NY2d 303, 313), and the trial court has wide latitude to exclude evidence that is repetitive, only marginally relevant, or poses an undue risk of confusion of the issues (*see People v Bowen*, 67 AD3d 1022, 1023; *People v Celifie*, 287 AD2d 465, 466; *People*

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v Cancel, 176 AD2d 748, 749).

The Supreme Court, under the circumstances here, providently exercised its discretion in excluding testimony of a witness called by the defendant that there was a video camera outside the building where the defendant allegedly completed a drug sale to an undercover police officer (*see People v Hayes*, 17 NY3d 46).

DILLON, J.P., FLORIO, CHAMBERS and MILLER, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court