

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

D35394  
G/ct

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Submitted - May 17, 2012

DANIEL D. ANGIOLILLO, J.P.  
ARIEL E. BELEN  
SHERI S. ROMAN  
SANDRA L. SGROI, JJ.

2011-04186

DECISION & ORDER

The People, etc., respondent,  
v Dukieem M. Wilson, appellant.

(Ind. No. 47/10)

Thomas N.N. Angell, Poughkeepsie, N.Y. (Steven Levine of counsel), for appellant.

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Kirsten A. Rappleyea of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Dutchess County (Greller, J.), rendered April 21, 2011, convicting him of criminal possession of a weapon in the second degree, upon his plea of guilty (Hayes, J.), and imposing sentence. The appeal from the judgment brings upon for review the denial, after a hearing (Hayes, J.), of that branch of the defendant's omnibus motion which was to suppress physical evidence.

ORDERED that the judgment is affirmed.

“[A]s a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred,’ even if the underlying reason for the stop was to investigate another matter unrelated to the traffic violation” (*People v Sluszka*, 15 AD3d 421, 423, quoting *People v Robinson*, 97 NY2d 341, 348-349; see *Whren v United States*, 517 US 806, 810). Here, the police had probable cause to stop the vehicle in which the defendant was a passenger upon observing that it failed to signal when leaving the curb and entering a public highway (see Vehicle and Traffic Law § 1163[d]).

Additionally, “[t]he 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” (*People v Smith*, 77 AD3d 980, 981 [internal quotation marks omitted]; see *People v Spann*, 82 AD3d 1013, 1014). Here, contrary to the defendant’s contentions, the testimony of the officers at the hearing was not unbelievable (*cf. Matter of Robert D.*, 69 AD3d 714, 716-717). Based on the officers’ testimony, the hearing court properly concluded that the frisking of the defendant which resulted in the seizure of a gun was supported by the requisite predicate of reasonable suspicion by the police that the defendant might be armed (see *e.g. People v Batista*, 88 NY2d 650; *People v Benjamin*, 51 NY2d 267, 271; *People v Caicedo*, 69 AD3d 954; *People v Zingale*, 246 AD2d 613).

ANGIOLILLO, J.P., BELEN, ROMAN and SGROI, JJ., concur.

ENTER:

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

Aprilanne Agostino  
Clerk of the Court