

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

D36587
T/kmb

_____AD3d_____

Submitted - October 15, 2012

WILLIAM F. MASTRO, J.P.
PETER B. SKELOS
ANITA R. FLORIO
THOMAS A. DICKERSON, JJ.

2007-11732

DECISION & ORDER

The People, etc., respondent,
v Andrew Brown, appellant.

(Ind. No. 1197/07)

Joseph A. Hanshe, Sayville, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Robert A. Schwartz, Laurie K. Gibbons, and Jessica L. Cepriano of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Nassau County (Kase, J.), rendered December 7, 2007, convicting him of criminal possession of a controlled substance in the third degree (four counts) and criminal sale of a controlled substance in the third degree (four counts), upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, he was not deprived of the effective assistance of counsel. Considering the totality of the evidence, the law, and the circumstances of the case, trial counsel provided meaningful representation (*see People v Benevenuto*, 91 NY2d 708, 712; *see also People v Caban*, 5 NY3d 143, 152; *People v Stultz*, 2 NY3d 277, 287; *People v Rivera*, 71 NY2d 705, 709).

The defendant's remaining contentions, that he was deprived of due process when the Supreme Court denied his motion to suppress certain evidence without holding a *Dunaway/Mapp* hearing (*see Mapp v Ohio*, 367 US 643; *Dunaway v New York*, 442 US 200), and because the close quarters of the courtroom prohibited him from holding private conversations with his attorney, are

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without merit.

MASTRO, J.P., SKELOS, FLORIO and DICKERSON, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court