

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

855

KA 08-01213

PRESENT: SCUDDER, P.J., HURLBUTT, MARTOCHE, SMITH, AND CENTRA, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ALEXANDER FARNSWORTH, DEFENDANT-APPELLANT.

SCHLATHER, GELDENHUYS, STUMBAR, SALK & PARKS, ITHACA (DAVID M. PARKS OF COUNSEL), FOR DEFENDANT-APPELLANT.

RICHARD M. HEALY, DISTRICT ATTORNEY, LYONS (DAVID V. SHAW OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Wayne County Court (Stephen R. Sirkin, J.), rendered May 30, 2008. The judgment convicted defendant, upon a jury verdict, of criminal possession of stolen property in the third degree.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting him following a jury trial of criminal possession of stolen property in the third degree (Penal Law § 165.50). Contrary to defendant's contention, the evidence is legally sufficient to support the conviction (*see generally People v Bleakley*, 69 NY2d 490, 495). Viewing the evidence in light of the elements of the crime as charged to the jury (*see People v Danielson*, 9 NY3d 342, 349), we further conclude that the verdict is not against the weight of the evidence (*see generally Bleakley*, 69 NY2d at 495). Contrary to defendant's further contention, County Court's *Sandoval* ruling did not constitute an abuse of discretion. "The record establishes that the court properly balanced the probative value of [defendant's] prior convictions against the potential for undue prejudice" (*People v Montgomery*, 288 AD2d 909, 910, *lv denied* 97 NY2d 685; *see People v Hayes*, 97 NY2d 203, 207-208; *People v Walker*, 83 NY2d 455, 459; *People v Arguinzoni*, 48 AD3d 1239, 1240-1241, *lv denied* 10 NY3d 859), as well as the probative value of the facts underlying defendant's prior youthful offender adjudication (*see People v Greer*, 42 NY2d 170, 176; *People v Duffy*, 36 NY2d 258, 264, *mot to amend remittitur granted* 36 NY2d 857, 875, *cert denied* 423 US 861; *People v Colf*, 286 AD2d 888, 889, *lv denied* 97 NY2d 655).

Entered: June 5, 2009

Patricia L. Morgan
Clerk of the Court