

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

D55844  
M/htr

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - February 23, 2018

WILLIAM F. MASTRO, J.P.  
JOHN M. LEVENTHAL  
BETSY BARROS  
VALERIE BRATHWAITE NELSON, JJ.

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2014-06301

DECISION & ORDER

The People, etc., respondent,  
v Jacques Magny, appellant.

(Ind. No. 2331/13)

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Paul Skip Laisure, New York, NY (Ronald Zapata of counsel), for appellant.

Eric Gonzalez, District Attorney, Brooklyn, NY (Leonard Joblove and Diane R. Eisner of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Wayne M. Ozzi, J.), rendered June 19, 2014, convicting him of criminal possession of a controlled substance in the fourth degree, endangering the welfare of a child, and unlawful possession of marijuana, upon a jury verdict, and criminal possession of a weapon in the second degree, upon his plea of guilty, and imposing sentence. The appeal brings up for review the denial, without a hearing (Martin P. Murphy, J.), of the defendant's motion to controvert a search warrant and to suppress physical evidence seized in the execution thereof or, in the alternative, for *Mapp* (see *Mapp v Ohio*, 367 US 643) and *Darden* (see *People v Darden*, 34 NY2d 177) hearings.

ORDERED that the judgment is affirmed.

The defendant's waiver of his right to appeal his conviction of criminal possession of a weapon in the second degree, upon his plea of guilty, was knowingly, intelligently, and voluntarily made, and encompassed the denial of his motion to controvert a search warrant and to suppress physical evidence seized in the execution thereof or, in the alternative, for *Mapp* (see *Mapp v Ohio*, 367 US 643) and *Darden* (see *People v Darden*, 34 NY2d 177) hearings with respect to that conviction (see *People v Kemp*, 94 NY2d 831, 833; *People v Kane*, 151 AD3d 751).

June 27, 2018

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The defendant only partially preserved for appellate review his arguments, with respect to his convictions of criminal possession of a controlled substance in the fourth degree, endangering the welfare of a child, and unlawful possession of marijuana, that his motion to controvert and suppress or, in the alternative, for *Mapp* and *Darden* hearings was improperly denied (see CPL 470.05[2]). In any event, the motion was properly denied, as the warrant application demonstrated the existence, reliability, and basis of the knowledge of the confidential informant, and established that there was probable cause for the search warrant (see *People v Slater*, 141 AD3d 677, 677-678; *People v Brucciani*, 82 AD3d 1001, 1002; *People v Hunter*, 56 AD3d 684). Moreover, the defendant failed to establish entitlement to either a *Mapp* or a *Darden* hearing (see *People v France*, 12 NY3d 790, 791; *People v Hamilton*, 276 AD2d 715, 716).

MASTRO, J.P., LEVENTHAL, BARROS and BRATHWAITE NELSON, JJ., concur.

ENTER:



Aprilanne Agostino  
Clerk of the Court