

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

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KA 18-01941

PRESENT: BANNISTER, J.P., MONTOUR, SMITH, NOWAK, AND HANNAH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

NERO FOWLER, DEFENDANT-APPELLANT.

ADAM AMIRAULT, BUFFALO, FOR DEFENDANT-APPELLANT.

TODD C. CARVILLE, DISTRICT ATTORNEY, UTICA (MICHAEL A. LABELLA, JR., OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Oneida County Court (Michael L. Dwyer, J.), rendered July 24, 2018. The judgment convicted defendant, upon a jury verdict, of criminal possession of a controlled substance in the third degree and criminal sale of a controlled substance 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, upon a jury verdict, of criminal sale of a controlled substance in the third degree (Penal Law § 220.39 [1]) and criminal possession of a controlled substance in the third degree (§ 220.16 [1]). We affirm.

Contrary to defendant's contention, County Court properly denied his request for a *Darden* hearing. Where, as here, "information is received from a confidential informant but . . . police officer[s] thereafter make[] [their] own observations of criminal activity without further employment of the informant, those observations form the basis for probable cause to arrest, rendering a *Darden* hearing unnecessary" (*People v Dudden*, 138 AD3d 1452, 1453 [4th Dept 2016], *lv denied* 28 NY3d 929 [2016], *cert denied* 580 US 1162 [2017]; *see People v Crooks*, 27 NY3d 609, 614-615 [2016]; *People v Farrow*, 98 NY2d 629, 631 [2002]).

Defendant's contentions regarding the legal sufficiency of the evidence are not preserved for our review because defendant made only a general motion for a trial order of dismissal (*see People v Gray*, 86

NY2d 10, 19 [1995]; *People v Piasta*, 207 AD3d 1054, 1058 [4th Dept 2022], *lv denied* 38 NY3d 1190 [2022]).

Entered: June 27, 2025

Ann Dillon Flynn
Clerk of the Court