

2018 WL 3637419 (Mem)

Supreme Court,
Appellate Division, Second Department, New York.

The PEOPLE, etc., respondent,

v.

Mark PERRY, appellant.

2016–04065

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(Ind. No. 7203/14)

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Submitted—April 20, 2018

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August 1, 2018

Attorneys and Law Firms

The Legal Aid Society, New York, N.Y. (Ronald Alfano of counsel), for appellant.

Eric Gonzalez, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Sholom J. Twersky of counsel; Masha Simonova on the brief), for respondent.

WILLIAM F. MASTRO, J.P., RUTH C. BALKIN, SYLVIA O. HINDS–RADIX, ANGELA G. IANNACCI, JJ.

DECISION & ORDER

*1 Appeal by the defendant from a judgment of the Supreme Court, Kings County (Raymond Guzman, J.), rendered March 18, 2016, convicting him of 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, after a hearing, of those branches of the defendant's omnibus motion which were to suppress physical evidence and the defendant's statement to law enforcement officials.

ORDERED that the judgment is affirmed.

The defendant was charged with various crimes arising from his possession of a loaded pistol. He moved to suppress the pistol and a statement he made to police officers, arguing that the police lacked probable cause to arrest him. After a hearing, his motion was denied. The defendant pleaded guilty to criminal possession of a weapon in the second degree in exchange for the Supreme Court's conditional promise to impose a particular sentence. As part of his plea agreement, the defendant waived his right to appeal.

The defendant's unrestricted waiver of the right to appeal was knowing, voluntary, and intelligent, and it bars review of the defendant's claim that the Supreme Court erred in denying those branches of his motion which were to suppress the evidence recovered from him and his statement to the police officers who arrested him (*see People v. Muniz*, 91 N.Y.2d 570, 574, 673 N.Y.S.2d 358, 696 N.E.2d 182; *People v. Corbin*, 121 A.D.3d 803, 804, 993 N.Y.S.2d 746; *People v. Gaskin*, 95 A.D.3d 902, 902, 942 N.Y.S.2d 883).

MASTRO, J.P., BALKIN, HINDS–RADIX and IANNACCI, JJ., concur.

All Citations

2018 WL 3637419 (Mem), 2018 N.Y. Slip Op. 05607