

**APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW
YORK, FIRST DEPARTMENT**

People v. Brown

200 A.D.2d 416 (1st Dep't 1994) · Decided January 11, 1994

SUMMARY

The court unanimously affirmed the defendant's conviction for third-degree criminal possession of a controlled substance and his sentence as a second felony offender. It held that the evidence was sufficient and not against the weight of the evidence, rejected or found unpreserved the defendant's evidentiary and ineffective-assistance claims, and found the remaining contentions meritless.

OPINION

PER CURIAM.

—Judgment, Supreme Court, Bronx County (Joseph Mazur, J.) rendered May 29, 1990, convicting defendant, after a jury trial, of criminal possession of a controlled substance in the third degree, and sentencing him as a second felony offender to a term of AVz to 9 years, unanimously affirmed. Police, on anti-narcotics patrol, observed defendant from a rooftop as defendant engaged in multiple hand-to-hand exchanges.

After one exchange, defendant walked to a nearby firebox, pulled out a brown bag, extracted something from the bag, and returned the bag to the firebox. Moments later, police responded, a patdown of defendant recovered a roll of cash, and the bag in the firebox was found to contain 82 vials of crack.

Under the standards set forth in *People v Bleakley* (69 NY2d 490, 495), defendant's guilt was proved beyond a reasonable doubt by overwhelming evidence, and the verdict was not against the weight of that evidence. Defendant's evidentiary challenges, in part, are unpreserved; they are all meritless. Testimony that defendant had engaged in hand-to-hand exchanges, and references to the area as a drug prone location, provided narrative information explaining why police targeted defendant for observation (*People v Rivera*, 186 AD2d 504, 505).

Since defendant never requested a limiting instruction at trial, that claim also is unpreserved (*People v Diaz*, 170 AD2d 395, lv denied 78 NY2d 954). By failing to challenge the competence of trial counsel pursuant to CPL 440.10, defendant failed to provide this Court with a reviewable record.

On the *417basis of the present record, we do not find that defendant was denied meaningful representation (see, *People v Rivera*, 71 NY2d 705, 709; *People v Baldi*, 54 NY2d 137, 147). We

have examined defendant's remaining contentions and find them to be without merit. Concur —
Carro, J. P., Ellerin, Kupferman and Ross, JJ.

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