

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

753

KA 06-02570

PRESENT: SMITH, J.P., CENTRA, PERADOTTO, GREEN, AND GORSKI, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JOSE L. GONZALEZ, DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (DREW R. DUBRIN OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (NANCY A. GILLIGAN OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Monroe County (Joseph D. Valentino, J.), rendered January 31, 2006. The judgment convicted defendant, upon his plea of guilty, of criminal possession of a controlled substance in the first degree.

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

Memorandum: Defendant appeals from a judgment convicting him upon his plea of guilty of criminal possession of a controlled substance in the first degree (Penal Law § 220.21 [1]). Contrary to the contention of defendant, Supreme Court properly refused to suppress the evidence seized from him during a traffic stop. We reject the contention of defendant that the People failed to establish the existence and reliability of the confidential informant and the basis of the informant's knowledge at the *Darden* hearing (see generally *People v Johnson*, 66 NY2d 398, 402-403). The court properly made available to defendant its "Summary Report" with respect to the existence of the informant and the communications made by the informant to the police (see *People v Allen*, 298 AD2d 856, *lv denied* 99 NY2d 579). That report established that "the information provided by the [informant] carried sufficient indicia of reliability to permit the officer to reasonably credit it" (*People v Bashian*, 190 AD2d 681, 682, *lv denied* 81 NY2d 836), and it established the basis of the informant's knowledge (see generally *Johnson*, 66 NY2d at 402).

Entered: June 5, 2009

Patricia L. Morgan
Clerk of the Court