

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

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**KA 07-00258**

PRESENT: SCUDDER, P.J., SMITH, FAHEY, AND LINDLEY, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JORGE L. COSME, DEFENDANT-APPELLANT.

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TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (JANET C. SOMES OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (PATRICK H. FIERRO OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Monroe County Court (Patricia D. Marks, J.), rendered September 25, 2006. The judgment convicted defendant, upon his plea of guilty, of criminal possession of a controlled substance in the first degree and criminal possession of a controlled substance in the third degree (three counts).

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

Memorandum: On appeal 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]) and three counts of criminal possession of a controlled substance in the third degree (§ 220.16 [1], [12]), defendant contends that County Court erred in refusing to suppress evidence seized as the result of the allegedly illegal stop of his vehicle. We reject that contention. "The officer[']s observation that defendant was not wearing a seatbelt was a sufficient reason to stop the vehicle" driven by defendant (*People v Taylor*, 57 AD3d 1504, 1505, lv denied 12 NY3d 788). Once the vehicle was stopped, the officer detected the odor of marihuana and thus had probable cause to search the vehicle (see *People v Cirigliano*, 15 AD3d 672, lv denied 5 NY3d 760, 827).

Entered: February 11, 2010

Patricia L. Morgan  
Clerk of the Court