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This memorandum is uncorrected and subject to revision before  
publication in the New York Reports.  
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No. 220 SSM 29  
The People &c.,  
Appellant,  
v.  
Marcelle E. Williams,  
Respondent.

Submitted by Kelly Christine Wolford, for appellant.  
Submitted by Drew R. Dubrin, for respondent.

MEMORANDUM:

The orders of the Appellate Division should be  
affirmed.

The reasonableness of a seizure, the existence of  
probable cause or reasonable suspicion, the classification of a  
detention as an arrest and the attenuation of evidence from

police misconduct are all mixed questions of law and fact that are beyond this Court's review unless there is no record support for the determinations of the court below (see e.g. People v Wheeler, 2 NY3d 370, 373 [2004]; People v Brannon, 16 NY3d 596, 602 [2011]; People v Gomcin, 8 NY3d 899, 901 [2007]; People v Farrell, 59 NY2d 686, 686 [1983]; People v Divine, 6 NY3d 790, 791 [2006]). Here, although different conclusions may not have been unreasonable, the record supports the Appellate Division's determination that defendant was arrested without probable cause (see People v Ryan, 12 NY3d 28, 30-31 [2009]; cf. People v Hicks, 68 NY2d 234, 240 [1986]) and that the seizure of evidence from him was neither attenuated from the illegal arrest nor derived from a source that was sufficiently independent of it. Since it is reasonably possible that the introduction of the impermissibly seized evidence affected the verdict, defendant is entitled to vacatur of the conviction and a new trial (see e.g. People v Crimmins, 36 NY2d 230, 237 [1975]). An unrelated conviction must be overturned as well because it was premised on a guilty plea for which defendant was promised a sentence that would run concurrently with the punishment imposed in this case (see People v Fuggazzatto, 62 NY2d 862, 863 [1984]).

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On review of submissions pursuant to section 500.11 of the Rules, orders affirmed, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided September 13, 2011