

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

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KA 12-02276

PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, DEJOSEPH, AND NEMOYER, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

MICHAEL T. ARTERBERRY, DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (JANE I. YOON OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (DANIEL GROSS OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Monroe County Court (John L. DeMarco, J.), rendered October 24, 2012. The judgment convicted defendant, upon a nonjury verdict, of criminal possession of marihuana in the third degree.

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

Memorandum: Defendant appeals from a judgment convicting him upon a nonjury verdict of criminal possession of marihuana in the third degree (Penal Law § 221.20). Viewing the evidence admitted at trial in light of the elements of the crime in this bench trial (see *People v Danielson*, 9 NY3d 342, 349), we reject defendant's contention that the verdict is against the weight of the evidence (see generally *People v Bleakley*, 69 NY2d 490, 495). Here, the confidential informant testified that he had purchased marihuana from defendant at the subject apartment on more than one occasion, and the People presented evidence establishing that "defendant exercised dominion or control over the [marihuana] by a sufficient level of control over the area in which [it was] found" (*People v Mattison*, 41 AD3d 1224, 1225 [internal quotation marks omitted], lv denied 9 NY3d 924; see *People v Slade*, 133 AD3d 1203, 1205, lv denied 26 NY3d 1150).

Entered: June 10, 2016

Frances E. Cafarell
Clerk of the Court