

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

1318

**KA 16-01231**

PRESENT: SMITH, J.P., LINDLEY, DEJOSEPH, NEMOYER, AND CURRAN, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

RONZELL CAMBER, DEFENDANT-APPELLANT.

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FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (DARIENN M. POWERS OF COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (KENNETH H. TYLER, JR., OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Onondaga County (John J. Brunetti, A.J.), rendered April 12, 2016. The judgment convicted defendant, upon his plea of guilty, of criminal possession of a weapon in the second 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 weapon in the second degree (Penal Law § 265.03 [3]). We now affirm.

Supreme Court properly refused to suppress a loaded gun recovered from defendant's person after the vehicle in which he was riding pulled over. Within approximately one minute and three blocks of a corroborated 911 report of shots fired, a police officer observed a vehicle that appeared to match the description provided by the 911 caller of a vehicle "possibly involved" in the shooting. Although defendant correctly argues that the officer effectuated a level three seizure at the moment he ordered defendant and the other occupants to remain in the vehicle (*see People v Harrison*, 57 NY2d 470, 476 [1982]), we nevertheless agree with the People that, given the circumstances described above, the officer possessed the requisite reasonable suspicion of criminality to effect that seizure (*see People v Martinez*, 147 AD3d 642, 642 [1st Dept 2017], *lv denied* 29 NY3d 1034 [2017]; *People v Williams*, 126 AD3d 1304, 1304-1305 [4th Dept 2015], *lv denied* 25 NY3d 1209 [2015]; *People v Sanchez*, 216 AD2d 207, 208 [1st Dept 1995], *lv denied* 87 NY2d 850 [1995]). Defendant's ensuing refusal to follow that officer's directive to show his hands and related evasive conduct justified the subsequent pat frisk in which the gun was discovered (*see People v Mack*, 49 AD3d 1291, 1292 [4th Dept 2008], *lv denied* 10 NY3d 866 [2008]).

The sentence is not unduly harsh or severe.

Entered: December 21, 2018

Mark W. Bennett  
Clerk of the Court