

281 A.D.2d 554

Supreme Court, Appellate Division,
Second Department, New York.

The PEOPLE, etc., respondent,

v.

James CLEON, a/k/a Cleon James, appellant.

March 19, 2001.

Attorneys and Law Firms

Lynn W.L. Fahey, New York, N.Y. (**Paul Skip Laisure** of counsel), for appellant.

****813** Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano and Peter Mason of counsel), for respondent.

Opinion

***554** Appeal by the defendant from a judgment of the ***555** Supreme Court, Queens County (Dunlop, J.), rendered September 22, 1999, convicting him of robbery in the first degree (two counts), criminal possession of a weapon in the fourth degree, and criminal possession of stolen property in the fifth degree (two counts), upon a jury verdict, and sentencing him, as a violent felony offender, to consecutive determinate terms of eight years imprisonment on each of the convictions of robbery in the first degree, and terms of one year imprisonment each on the conviction of criminal possession of a weapon in the fourth degree and on the convictions of criminal possession of stolen property in the fifth degree, to run concurrently with each other and with

the terms of imprisonment imposed on the convictions of robbery in the first degree. The appeal brings up for review the denial, after a hearing (Demakos, J.), of that branch of the defendant's omnibus motion which was to suppress identification evidence.

ORDERED that the judgment is **modified**, as a matter of discretion in the interest of justice, by providing that the terms of imprisonment imposed on the convictions of robbery in the first degree shall run concurrently with each other; as so **modified**, the judgment is affirmed.

Contrary to defendant's contention, his showup identification was not unduly suggestive merely because the two complainants were together (*see, People v. Love*, 57 N.Y.2d 1023, 457 N.Y.S.2d 474, 443 N.E.2d 948). Although simultaneous showup procedures are generally disfavored (*see, People v. Adams*, 53 N.Y.2d 241, 440 N.Y.S.2d 902, 423 N.E.2d 379), they are permissible when, as here, they are conducted in close spatial and temporal proximity to the commission of the crime for the purpose of securing a prompt and reliable identification (*see, People v. Laing*, 221 A.D.2d 662, 634 N.Y.S.2d 512).

The sentence imposed was excessive to the extent indicated.

BRACKEN, P.J., RITTER, GOLDSTEIN and FEUERSTEIN, JJ., concur.

All Citations

281 A.D.2d 554, 721 N.Y.S.2d 812 (Mem), 2001 N.Y. Slip Op. 02239