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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 84 SSM 62
The People &c.,
Respondent,
v.
Jerry Francois,
Appellant.

Submitted by Laura Lieberman Cohen, for appellant.
Submitted by Lindsey M. Kneipper, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed.

The Appellate Division's determination that the officer's
conduct did not elevate his encounter with defendant from a
common-law inquiry to a seizure necessitating reasonable

suspicion constitutes a resolution of a mixed question of law and fact that is supported by the record evidence (see generally People v Wheeler, 2 NY3d 370, 373 [2004]), and is therefore beyond this Court's further power of review (see People v Battaglia, 86 NY2d 755, 756 [1995]).

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

Decided February 11, 2010