

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D12202  
O/cb

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - June 12, 2006

ANITA R. FLORIO, J.P.  
DAVID S. RITTER  
GLORIA GOLDSTEIN  
ROBERT A. LIFSON, JJ.

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2005-02924  
2005-02925

DECISION & ORDER

The People, etc., respondent,  
v Justin A. Bell, appellant.

(Ind. Nos. 04-00431, 04-00730)

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Michael G. Paul, New York, N.Y., for appellant.

Francis D. Phillips II, District Attorney, Goshen, N.Y. (Daniel M. Reback of counsel),  
for respondent.

Appeals by the defendant from two judgments of the County Court, Orange County (Rosenwasser, J.), both rendered March 11, 2005, convicting him of criminal sale of a controlled substance in the first degree under Indictment No. 04-00431 and criminal possession of a controlled substance in the third degree under Indictment No. 04-00730, upon his pleas of guilty, and imposing sentences.

ORDERED that the judgments are affirmed.

There is no basis in this record to vacate the defendant's pleas of guilty, nor is there any evidence in the record that defense counsel provided ineffective representation. The defendant's claims based upon matter dehors the record cannot be reviewed on direct appeal from the judgment of conviction (*see People v Spotards*, 23 AD3d 586). Any challenges to the defendant's resentencing

October 10, 2006

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pursuant to Penal Law § 60.09 under Indictment No. 2004-00431 are cognizable upon a direct appeal from the resentence (*see People v Van Aken*, 83 AD2d 617).

FLORIO, J.P., RITTER, GOLDSTEIN and LIFSON, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court