

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

D13261
C/hu

_____AD3d_____

Submitted - November 29, 2006

HOWARD MILLER, J.P.
GABRIEL M. KRAUSMAN
ROBERT A. SPOLZINO
STEVEN W. FISHER
MARK C. DILLON, JJ.

2005-06561

DECISION & ORDER

The People, etc., respondent,
v Kenneth L. Forte, appellant.

(Ind. No. 04-00821)

Mark C. Fang, Hawthorne, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Thomas K. Chong and Richard Longworth Hecht of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Westchester County (Bellantoni, J.), rendered June 15, 2005, convicting him of attempted criminal possession of a controlled substance in the fourth degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

With certain exceptions not applicable herein, the ameliorative provisions of the Drug Law Reform Act (L 2004, ch 738, § 41[d-1]; hereinafter the Act) were not to be applied to crimes committed before the effective date of the Act. Here, the defendant committed the instant offense before the effective date of the Act. Accordingly, the court properly determined that the defendant was not entitled to the ameliorative provisions of the Act (*see People v Utsey*, 7 NY3d 398).

MILLER, J.P., KRAUSMAN, SPOLZINO, FISHER and DILLON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

December 26, 2006

PEOPLE v FORTE, KENNETH L.