

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

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_____AD3d_____

Submitted - January 10, 2007

WILLIAM F. MASTRO, J.P.
DAVID S. RITTER
PETER B. SKELOS
EDWARD D. CARNI
WILLIAM E. McCARTHY, JJ.

2006-01276
2006-01279

DECISION & ORDER

The People, etc., respondent,
v Tiamo Smith, appellant.

(S.C.I. No. 05-00944, Ind. No. 05-00705)

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

Francis D. Phillips II, District Attorney, Goshen, N.Y. (David R. Huey of counsel),
for respondent.

Appeals by the defendant from two judgments of the County Court, Orange County (DeRosa, J.), both rendered January 26, 2006, convicting him of criminal possession of a controlled substance in the fifth degree under Superior Court Information No. 05-00944, and robbery in the third degree under Indictment No. 05-00705, upon his pleas of guilty, and imposing sentences.

ORDERED that the judgments are affirmed.

The defendant's argument that his guilty pleas were invalid due to ineffective assistance of counsel is unpreserved for appellate review because he did not move to withdraw his pleas on that ground (*see People v Clarke*, 93 NY2d 904, 905; *People v Pellegrino*, 60 NY2d 636, 637; *People v Catts*, 26 AD3d 341). In any event, to the extent that his argument may be reviewed on direct appeal, it is without merit (*see People v Dallas*, 31 AD3d 573, *lv denied* 7 NY3d 866; *People v Krebs*, 11 AD3d 713).

The sentences imposed were not excessive and, in any event, the defendant has no basis to complain because the sentences were part of negotiated plea bargains (*see People v Rodriguez*, 32 AD3d 481, *lv denied* 7 NY3d 904; *People v Demosthene*, 21 AD3d 384)

The defendant's remaining contention is without merit.

MASTRO, J.P., RITTER, SKELOS, CARNI and McCARTHY, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer
Clerk of the Court