

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

D13849
W/cb

_____AD3d_____

Submitted - January 10, 2007

REINALDO E. RIVERA, J.P.
ROBERT A. SPOLZINO
STEVEN W. FISHER
ROBERT A. LIFSON
THOMAS A. DICKERSON, JJ.

2006-03752

DECISION & ORDER

The People, etc., respondent,
v Dennis Hemion, appellant.

(Ind. No. 00826-05)

Philip H. Schnabel, Chester, N.Y., for appellant.

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

Appeal by the defendant from a judgment of the County Court, Orange County (DeRosa, J.), rendered April 11, 2006, convicting him of operating a motor vehicle while under the influence of alcohol, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the plea was not knowing, intelligent, and voluntary is unpreserved for appellate review since he did not move to withdraw his plea on this ground (*see People v Lopez*, 71 NY2d 662, 665; *People v Pellegrino*, 60 NY2d 636, 637; *People v Velazquez*, 21 AD3d 388).

The defendant's valid and unrestricted written waiver of the right to appeal, as part of his plea agreement, precludes appellate review of his claim that the sentence imposed was excessive (*see People v Ramos*, 21 AD3d 1125, *aff'd* 7 NY3d 737; *cf. People v Seaberg*, 74 NY2d 1, 9).

RIVERA, J.P., SPOLZINO, FISHER, LIFSON and DICKERSON, 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