

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

D13856
W/hu

_____AD3d_____

Submitted - December 8, 2006

ROBERT W. SCHMIDT, J.P.
WILLIAM F. MASTRO
FRED T. SANTUCCI
STEVEN W. FISHER, JJ.

2004-07560

DECISION & ORDER

The People, etc., respondent,
v Jeffrey Noble, a/k/a Michael Novel, appellant.

(Ind. No. 4052/00)

Ronna Gordon-Galchus, Bayside, N.Y., for appellant, and appellant pro se.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano and Merri Turk Lasky of counsel; Narissa C. Webber on the brief), for respondent.

Appeal by the defendant, by permission, from an order of the Supreme Court, Queens County (Roman, J.), dated July 30, 2004, which denied his motion pursuant to CPL 440.20 to vacate the sentence imposed upon so much of a judgment of the same court, rendered October 1, 2001, as convicted him of robbery in the first degree, under Indictment Number 4052/00, upon his plea of guilty.

ORDERED that the order is affirmed.

Pursuant to a promise made at the time of the defendant's plea of guilty, the court sentenced the defendant to a determinate prison term of eight years upon his conviction of robbery in the first degree. Neither the sentencing minutes, nor the court's order of commitment, mentioned the imposition of any period of post-release supervision. Therefore, the sentence actually imposed by the court never included, and does not now include, any period of post-release supervision (*see Hill v U.S. ex rel. Wampler*, 298 US 460; *Earley v Murray*, 451 F3d 71, *rearg denied* 462 F3d 147; *but see People v Sparber*, 34 AD3d 265).

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Under these circumstances, the defendant received precisely the sentence for which he bargained, and therefore he has failed to articulate any reason that his judgment of conviction, upon his plea of guilty, should be vacated (*cf. People v Catu*, 4 NY3d 242) or his sentence modified in any way. Accordingly, we affirm the denial of his motion pursuant to CPL article 440.

SCHMIDT, J.P., MASTRO, SANTUCCI and FISHER, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court