

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

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_____AD3d_____

Submitted - April 2, 2007

DAVID S. RITTER, J.P.
FRED T. SANTUCCI
RUTH C. BALKIN
WILLIAM E. McCARTHY, JJ.

2005-11598

DECISION & ORDER

The People, etc., respondent,
v Shaheed Emery, appellant.

(Ind. No. 01-00370)

Adam Seiden, Mount Vernon, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Brian F. Fitzgerald, Richard Longworth Hecht, and Anthony J. Servino of counsel), for respondent.

Appeal by the defendant from an amended judgment of the Supreme Court, Westchester County (Adler, J.), rendered September 29, 2005, revoking a sentence of probation previously imposed by the same court (Perone, J.), upon a finding that he had violated conditions thereof, upon his admission, and imposing a sentence of imprisonment upon his previous conviction of attempted criminal sale of a controlled substance in the third degree.

ORDERED that the amended judgment is affirmed.

A violation of probation petition was filed against the defendant and, on September 29, 2005, he voluntarily, knowingly, and intelligently admitted that he had violated certain conditions of his probation (*see People v Ramirez*, 29 AD3d 1022). Based on the admissions, the Supreme Court revoked the defendant's probation and sentenced him in accordance with the court's commitment as to sentencing as part of the defendant's plea agreement.

The defendant's contentions that he was denied certain statutory and constitutional rights in connection with the violation of probation proceeding are unpreserved for appellate review since the defendant did not raise these issues at sentencing and did not move to withdraw his

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admissions or vacate the amended judgment (*see People v Alvarez*, 26 AD3d 442; *People v Lent*, 10 AD3d 457; *People v Viruet*, 288 AD2d 407). In any event, these contentions are without merit since the defendant admitted to a series of crimes he was convicted of between May 2002 and September 2004, during his probation, in violation of the terms of his probation and the record reflects that he received meaningful representation of counsel (*see People v Fecu*, 38 AD3d 565).

RITTER, J.P., SANTUCCI, BALKIN and McCARTHY, 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