

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

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_____AD3d_____

Submitted - May 4, 2007

ROBERT W. SCHMIDT, J.P.
REINALDO E. RIVERA
DANIEL D. ANGIOLILLO
RUTH C. BALKIN, JJ.

2004-01088

DECISION & ORDER

The People, etc., respondent,
v Albert Ermmarino, appellant.

(Ind. No. 978-03)

Albert Ermmarino, Albion, N.Y., appellant pro se.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Grazia DiVincenzo of counsel),
for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Farneti, J.), rendered October 16, 2003, convicting him of conspiracy in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that he did not receive the effective assistance of trial counsel is based partly on matter dehors the record which cannot be reviewed on direct appeal (*see People v Cumba*, 32 AD3d 444). To the extent that the defendant's claim that defense counsel rendered ineffective assistance of counsel is reviewable on direct appeal, defense counsel provided meaningful representation (*see People v Benevento*, 91 NY2d 708, 714; *People v Baldi*, 54 NY2d 137, 147).

The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

SCHMIDT, J.P., RIVERA, ANGIOLILLO and BALKIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

June 5, 2007

PEOPLE v ERMMARINO, ALBERT