

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

D15773  
O/hu

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - May 30, 2007

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

---

2006-00793

DECISION & ORDER

The People, etc., respondent,  
v Rafael Rosario, appellant.

(Ind. No. 02-00197)

---

James D. Licata, New City, N.Y. (Lois Cappelletti of counsel), for appellant.

Michael E. Bongiorno, District Attorney, New City, N.Y. (Argiro Kosmetatos and Elana L. Yeger of counsel), for respondent.

Appeal by the defendant from a resentence of the County Court, Rockland County (Kelly, J.), imposed August 5, 2005, upon his conviction of criminal sale of a controlled substance in the first degree, upon his plea of guilty.

ORDERED that the resentence is affirmed.

While the Drug Law Reform Act permits the defendant to appeal his resentence on the basis that it was excessive (*see* L 2004 ch 738, § 23), the defendant expressly accepted the court's resentence offer and, thus, has no basis to now complain that the resentence was excessive (*see* *People v Guzman*, 37 AD3d 615, 616; Penal Law § 70.71[3][b][i]).

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

ENTER:



James Edward Pelzer  
Clerk of the Court

July 10, 2007

PEOPLE v ROSARIO, RAFAEL