

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

D15787
W/hu

_____AD3d_____

Submitted - May 31, 2007

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
STEVEN W. FISHER
MARK C. DILLON, JJ.

2005-10763

DECISION & ORDER

The People, etc., respondent,
v Charles Ouanounou, appellant.

(Ind. No. 1151/04)

Steven Banks, New York, N.Y. (Allen Fallek of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano,
Nicoletta J. Caferri, and Ayelet Sela of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Kron, J.), rendered October 11, 2005, convicting him of criminal possession of stolen property in the third degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

On May 9, 2005, the defendant, who was out on bail, pleaded guilty to criminal possession of stolen property in the third degree. The plea bargain included a promise of a sentence of two to four years upon the condition, inter alia, that the defendant not be arrested between the date of the plea and his sentencing, which was originally set for June 23, 2005. At the defendant's plea allocution, the Supreme Court warned the defendant that his violation of the conditions of the plea agreement, including his rearrest, could result in the imposition of a sentence of imprisonment of 3 ½ to 27 years. The defendant was arrested on June 22, 2005, after being caught breaking into a parked automobile. After an *Outley* hearing (*see People v Outley*, 80 NY2d 702, 713), the Supreme Court (Spire, J.) found that the arrest on June 22, 2005, was legitimate. Based upon, inter alia, that determination, the Supreme Court sentenced the defendant to an enhanced sentence of imprisonment

July 10, 2007

Page 1.

PEOPLE v OUANOUNOU, CHARLES

of three to six years. It is also undisputed that the defendant subsequently pleaded guilty to a misdemeanor arising out of the arrest on June 22, 2005.

Contrary to the defendant's contention, the Supreme Court properly determined, after a hearing, that there was a legitimate basis for the defendant's arrest on June 22, 2005. Based upon that determination, the Supreme Court (Kron, J.) did not err in imposing an enhanced sentence in accordance with the terms of the defendant's plea bargain (*see People v Outley, supra; People v Messenger*, 7 AD3d 642; *see also People v Valencia*, 3 NY3d 714 715-716; *cf. People v Rodriguez*, 289 AD2d 512, 513-514; *Torres v Berbary* 340 F3d 63, 70-72).

RIVERA, J.P., FLORIO, FISHER and DILLON, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court