

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

D16533
W/cb

_____AD3d_____

Submitted - September 21, 2007

REINALDO E. RIVERA, J.P.
JOSEPH COVELLO
RUTH C. BALKIN
WILLIAM E. McCARTHY, JJ.

2006-01054

DECISION & ORDER

The People, etc., respondent,
v Harry Tucker, appellant.

(Ind. No. 05-00433)

Michele Marte-Indzonka, Newburgh, N.Y., for appellant.

Francis D. Phillips II, District Attorney, Goshen, N.Y. (David R. Huey of counsel),
for respondent.

Appeal by the defendant from a judgment of the County Court, Orange County (Berry, J.), rendered January 17, 2006, convicting him of burglary in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant voluntarily, knowingly, and intelligently waived his right to appeal (*see People v Ramos*, 7 NY3d 737, 738; *People v Lopez*, 6 NY3d 248, 256; *People v Seaberg*, 74 NY2d 1, 10). The defendant's valid waiver of his right to appeal forecloses appellate review of his challenges to the County Court's suppression determinations (*see People v Kemp*, 94 NY2d 831, 833; *People v Higgs*, 37 AD3d 736, *lv denied* 9 NY3d 845). Furthermore, the defendant's claim that he was deprived of his right to the effective assistance of counsel, where he does not allege that there was ineffective assistance in connection with his plea bargaining process, is not properly before this court (*see People v Dixon*, 41 AD3d 861; *People v Judy*, 21 AD3d 969; *People v Demosthene*, 2

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AD3d 874; *People v Herring*, 274 AD2d 525, 526; *People v Porter*, 268 AD2d 603; *People v Holmes*, 268 AD2d 597, 598).

RIVERA, J.P., COVELLO, 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