

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

D16903
G/cb

_____AD3d_____

Submitted - October 17, 2007

REINALDO E. RIVERA, J.P.
GABRIEL M. KRAUSMAN
ANITA R. FLORIO
EDWARD D. CARNI
RUTH C. BALKIN, JJ.

2006-03540

DECISION & ORDER

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

(S.C.I. No. 06-00039)

John P. Savoca, White Plains, N.Y., for appellant.

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

Appeal by the defendant from a judgment of the County Court, Westchester County (Loehr, J.), rendered March 27, 2006, convicting him of criminal mischief in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that his plea was not knowingly, voluntarily, and intelligently made is unpreserved for appellate review since he did not move to withdraw his plea on this ground (*see People v Williams*, 36 AD3d 839; *People v Gutierrez*, 35 AD3d 883; *People v Lopez*, 34 AD3d 599). The defendant's claims of coercion and ineffective assistance of counsel involve matter dehors the record, which may not be reviewed on direct appeal (*see People v Williams*, 36 AD3d at 840; *People v Lopez*, 34 AD3d 599; *People v Petteway*, 22 AD3d 772). To

the extent that the defendant's claims are reviewable on direct appeal, they are not supported by the record.

RIVERA, J.P., KRAUSMAN, FLORIO, CARNI and BALKIN, 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