

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

D17390
O/nl

_____AD3d_____

Submitted - November 14, 2007

WILLIAM F. MASTRO, J.P.
FRED T. SANTUCCI
MARK C. DILLON
DANIEL D. ANGIOLILLO, JJ.

2005-08834

DECISION & ORDER

The People, etc., respondent,
v Nina Huffman, appellant.

(Ind. No. 04-418)

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

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

Appeal by the defendant from a judgment of the County Court, Rockland County (Kelly, J.), rendered August 9, 2005, convicting her of criminal possession of a controlled substance in the third degree, upon her plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's claim that she should have received youthful offender treatment is unpreserved for appellate review, as the defendant failed to object or to move to withdraw her plea on the issue of youthful offender treatment (*see* CPL 220.60[3]; *People v Small*, 7 AD3d 819; *People v Fryer*, 2 AD3d 874; *People v Morales*, 267 AD2d 334; *People v Corbin*, 243 AD2d 575).

In any event, although the defendant was eligible for youthful offender treatment, as she was 18 years old when she committed the offense, "eligibility alone does not mandate youthful offender treatment. The granting of such benefit lies wholly within the discretion of the court" (*People v Polansky*, 125 AD2d 342; *see People v Williams*, 78 AD2d 642). In light of the fact that the defendant and her codefendant were found to be in possession of a significant amount of cocaine, as well as an assault rifle and ammunition that had been purchased by the defendant, and the

January 8, 2008

Page 1.

PEOPLE v HUFFMAN, NINA

otherwise favorable plea agreement, the sentencing court did not improvidently exercise its discretion in denying her request for youthful offender treatment.

MASTRO, J.P., SANTUCCI, DILLON and ANGIOLILLO, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style with a large initial 'J'.

James Edward Pelzer
Clerk of the Court