

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

D18578
C/prt

_____AD3d_____

Submitted - February 19, 2008

REINALDO E. RIVERA, J.P.
DAVID S. RITTER
EDWARD D. CARNI
JOHN M. LEVENTHAL, JJ.

2006-05220

DECISION & ORDER

The People, etc., respondent,
v Darrell V. Richardson, appellant.

(Ind. No. 04-01597)

Stephen C. Filler, Tarrytown, N.Y., for appellant.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Barbara D. Underwood and
Roseann B. MacKechnie of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Westchester County (DiBella, J.), rendered April 18, 2006, convicting him of knowingly engaging in the business of applying pesticides without having been registered by the Commissioner of the Department of Environmental Conservation in violation of Environmental Conservation Law §§ 33-1301(8-a) and 71-2907(3), as a misdemeanor, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant correctly contends that count four of the indictment, which alleged that he violated Environmental Conservation Law §§ 33-1301(8-a) and 71-2907(3) by knowingly engaging in the business of applying pesticides for hire at a residence without having registered with the Commissioner of the Department of Environmental Conservation, only alleged a violation, since it did not allege that he applied a “restricted use” pesticide (ECL 33-0101[42], 33-0101[19], 33-1301[8-a], 71-2907[3]; *People v Kohut*, 30 NY2d 183, 187). Nevertheless, his plea of guilty to a violation of Environmental Conservation Law §§ 33-1301(8-a) and 71-2907(3) as a misdemeanor was valid because it was bargained for and in full satisfaction of the entire indictment, which included two felony counts of engaging in a scheme to defraud, and a factual basis for the plea was not necessary (*see People v Clairborne*, 29 NY2d 950, 951; *People v Foster*, 19 NY2d 150, 153-154;

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People v Fields, 203 AD2d 379, 379-380; cf. *People v Johnson*, 89 NY2d 905).

RIVERA, J.P., RITTER, CARNI and LEVENTHAL, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court