

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

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_____AD3d_____

Submitted - March 12, 2008

REINALDO E. RIVERA, J.P.
ROBERT A. LIFSON
HOWARD MILLER
EDWARD D. CARNI
RANDALL T. ENG, JJ.

2002-04947
2002-04948

DECISION & ORDER

The People, etc., respondent,
v Andrew Mulleavey, appellant.

(Ind. Nos. 00-00567, 00-00569)

Barry E. Warhit, White Plains, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Valerie A. Livingston, Richard Longworth Hecht, and Anthony J. Servino of counsel; Lauren Abinanti on the brief), for respondent.

Appeals by the defendant from two amended judgments of the Supreme Court, Westchester County (Molea, J.), both rendered April 22, 2002, revoking sentences of probation previously imposed by the same court upon a finding that he had violated conditions thereof, upon his admissions, and imposing sentences of imprisonment upon his previous convictions of aggravated sexual abuse in the third degree under Superior Court Information No. 00-567, and sexual abuse in the first degree under Superior Court Information No. 00-569.

ORDERED that the amended judgments are affirmed.

The defendant's sole contention on appeal is that the sentences imposed upon the revocation of the probationary sentences were excessive. Upon a finding that the defendant violated conditions of his probation, the court was authorized to revoke the sentences of probation previously imposed and to impose sentences of imprisonment upon his previous convictions (*see People v Costanza*, 36 AD3d 829). Taking into consideration the defendant's history, the nature of the crimes,

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the multiple violations of probation, the fact that the sentences imposed were within the statutory guidelines, and the absence of any mitigating factors, we find that the sentences were not excessive (see *People v Suitte*, 90 AD2d 80; *People v Costanza*, 36 AD3d 829; *People v Wyant*, 274 AD2d 673).

RIVERA, J.P., LIFSON, MILLER, CARNI and ENG, 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