

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

D18860  
W/kmg

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - March 12, 2008

PETER B. SKELOS, J.P.  
FRED T. SANTUCCI  
JOSEPH COVELLO  
WILLIAM E. McCARTHY  
CHERYL E. CHAMBERS, JJ.

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2006-04821

DECISION & ORDER

The People, etc., respondent,  
v Nicholas Trias, appellant.

(Ind. No. 6873/02)

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Craig S. Leeds, New York, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Stephen J. McGrath and Cheryl Payer of counsel), for respondent.

Appeal by the defendant from an amended judgment of the Supreme Court, Kings County (Guzman, J.), rendered April 17, 2006, revoking a sentence of probation previously imposed by the same court upon a finding that he had violated a condition thereof, upon his admission, and imposing a sentence of imprisonment upon his previous conviction of robbery in the third degree.

ORDERED that the amended judgment is affirmed.

The defendant did not appeal from the original judgment convicting him, upon his plea of guilty, of robbery in the third degree. On this appeal from the amended judgment, the defendant is foreclosed from challenging the propriety of the original judgment, including, inter alia, claims as to the validity of his plea of guilty or the effectiveness of his counsel (*see People v Kimbrough*, 25 AD3d 810; *People v Oquendo*, 286 AD2d 740; *People v Augustin*, 286 AD2d 442; *People v Riddick*, 269 AD2d 472). In addition, the defendant admitted to the violation of probation with a full understanding that he would receive the term of imprisonment actually imposed at the time of resentencing, and therefore he “has no basis now to complain that his [re]sentence was excessive” (*People v Kazepis*, 101 AD2d 816, 817; *see People v Martinez*, 286 AD2d 447; *People v Allen*, 269

April 8, 2008

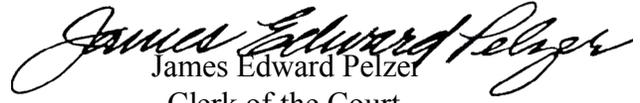
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AD2d 534). Moreover, there were no extraordinary circumstances present in this case which warrant disturbing the sentence imposed upon the amended judgment (*see People v Suitte*, 90 AD2d 80).

SKELOS, J.P., SANTUCCI, COVELLO, McCARTHY and CHAMBERS, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court