

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

D19379  
O/hu

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

Submitted - April 22, 2008

ROBERT A. LIFSON, J.P.  
DAVID S. RITTER  
MARK C. DILLON  
JOHN M. LEVENTHAL, JJ.

---

2007-07191

DECISION & ORDER

The People, etc., respondent,  
v Manolito Perez, appellant.

(Ind. No. 07-00194)

---

Salvatore C. Adamo, New York, N.Y., for appellant.

Francis D. Phillips II, District Attorney, Goshen, N.Y. (Luke E. Bovill and Andrew R. Kass of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Orange County (DeRosa, J.), rendered July 17, 2007, convicting him of attempted criminal possession of a forged instrument 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 coerced is unpreserved for appellate review because he did not move to vacate his plea or otherwise raise this issue before the County Court (*see People v Clarke*, 93 NY2d 904, 905; *People v Scoca*, 38 AD3d 801; *People v Lopez*, 34 AD3d 599; *People v Whitaker*, 27 AD3d 499). In any event, the defendant acknowledged under oath during the plea proceeding that no one had threatened, coerced, or forced him into pleading guilty, which belies his present unelaborated claim of coercion (*see People v Beasley*, \_\_\_\_\_ AD3d \_\_\_\_\_, 2008 NY Slip Op 03018 [2d Dept 2008]; *People v Gedin*, 46 AD3d 701; *People v Lopez*, 34 AD3d at 599; *People v Robertson*, 2 AD3d 756).

The defendant's valid waiver of his right to appeal precludes review of his claim that he was denied the effective assistance of counsel, except to the extent that the alleged ineffective

May 27, 2008

Page 1.

PEOPLE v PEREZ, MANOLITO

assistance affected the voluntariness of his plea (*see People v Morrow*, 48 AD3d 704; *People v Gedin*, 46 AD3d 701; *People v Dixon*, 41 AD3d 861, 862). Although the defendant's allegation that counsel was ineffective because he coerced him into pleading guilty relates to the voluntariness of his plea, it is unsupported by the record which demonstrates that the plea was knowingly, voluntarily, and intelligently made (*see People v Gedin*, 46 AD3d at 702).

The defendant's waiver of his right to appeal precludes review of his challenge to the sentence as excessive (*see People v Lopez*, 6 NY3d 248, 264; *People v Morrow*, 48 AD3d at 704; *People v Luster*, 45 AD3d 866).

LIFSON, J.P., RITTER, DILLON and LEVENTHAL, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court