

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

D19606
C/hu

_____AD3d_____

Submitted - May 14, 2008

STEVEN W. FISHER, J.P.
ANITA R. FLORIO
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON
ARIEL E. BELEN, JJ.

2005-04422

DECISION & ORDER

The People, etc., respondent,
v Leigh Churchill, appellant.

(Ind. No. 04-00595)

Michael G. Paul, New City, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Richard Longworth Hecht and Anthony J. Servino of counsel; Kerry C. Demorizi on the brief), for respondent.

Appeal by the defendant from a judgment of the County Court, Westchester County (DiBella, J.), rendered March 15, 2005, convicting him of assault in the first degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant failed to preserve for appellate review his claim that his plea of guilty was not knowingly, voluntarily, and intelligently entered (*see People v LeGrady*, _____AD3d_____, 2008 NY Slip Op 03669 [2d Dept 2008]). Moreover, this is not one of those rare cases in which a defendant's recitation of the facts underlying the crime casts significant doubt on his or her guilt (*see People v Lopez*, 71 NY2d 662).

The defendant's contention that he was denied the effective assistance of counsel rests, in part, on matter dehors the record, which cannot be reviewed on direct appeal (*see People v Rusielewicz*, 45 AD3d 704). To the extent that the defendant's contention can be reviewed, we find

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that the record does not support his contention that he was denied the effective assistance of counsel (see *People v Baldi*, 54 NY2d 137; *People v Petteway*, 22 AD3d 772).

The defendant's valid waiver of his right to appeal forecloses review of his claim that the sentence imposed was excessive (see *People v Vega*, _____AD3d_____, 2008 NY Slip Op 04380 [2d Dept 2008]).

FISHER, J.P., FLORIO, ANGIOLILLO, DICKERSON and BELEN, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer
Clerk of the Court