

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

D19625
Y/kmg

_____AD3d_____

Submitted - May 13, 2008

STEVEN W. FISHER, J.P.
FRED T. SANTUCCI
DANIEL D. ANGIOLILLO
WILLIAM E. McCARTHY, JJ.

2005-02906

DECISION & ORDER

The People, etc., respondent,
v Atif Whitfield, appellant.

(Ind. No. 04-932)

Peter A. Sell, New York, N.Y., for appellant.

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

Appeal by the defendant from a judgment of the County Court, Orange County (Rosenwasser, J.), rendered March 11, 2005, convicting him of burglary in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

Under the circumstances of this case, the defendant's valid and unrestricted written waiver of his right to appeal, as part of his plea agreement, precludes appellate review of his claim that he was denied the right to counsel of his choosing (*see People v Segrue*, 274 AD2d 671). Inasmuch as the defendant's claim with regard to the right to counsel does not include a claim that the voluntariness of his plea was impacted by that issue, it is foreclosed from review (*see People v Morrison*, _____AD3d_____, 2008 NY Slip Op 04888 [2d Dept 2008]).

FISHER, J.P., SANTUCCI, ANGIOLILLO and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

June 17, 2008

PEOPLE v WHITFIELD, ATIF