

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

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C/hu

_____AD3d_____

Submitted - December 3, 2008

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
DANIEL D. ANGIOLILLO
WILLIAM E. McCARTHY
CHERYL E. CHAMBERS, JJ.

2007-11140

DECISION & ORDER

The People, etc., respondent,
v Ralph B. Pappacena, Jr., appellant.

(Ind. No. 24/07)

Bruce A. Petito, Poughkeepsie, N.Y., for appellant.

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Bridget Rahilly Steller of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Dutchess County (Dolan, J.), rendered October 30, 2007, convicting him of murder in the second degree and grand larceny in the third degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the plea of guilty was not voluntary because it was coerced is unpreserved for appellate review since he did not move to withdraw his plea on that basis (*see People v Clarke*, 93 NY2d 904, 906; *People v Perez*, 51 AD3d 1043; *People v Scoca*, 38 AD3d 801; *People v Lopez*, 34 AD3d 599).

The defendant entered a plea of guilty after the Supreme Court ordered a hearing on that branch of his omnibus motion which was to suppress evidence, but before the hearing was held. By pleading guilty before the County Court decided his motion to suppress evidence, the defendant forfeited appellate review of the issues raised in that motion (*see CPL 710.70[2]*; *People v*

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Fernandez, 67 NY2d 686, 688; *People v Hussain*, 309 AD2d 818, 818-819; *People v Carter*, 304 AD2d 771, 772; *People v Holmes*, 268 AD2d 597, 598).

RIVERA, J.P., FLORIO, ANGIOLILLO, McCARTHY and CHAMBERS, 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