

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

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Submitted - February 5, 2009

A. GAIL PRUDENTI, P.J.  
PETER B. SKELOS  
MARK C. DILLON  
RANDALL T. ENG, JJ.

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2007-05241

DECISION & ORDER

The People, etc., respondent,  
v Nathan Perry, appellant.

(Ind. No. 351/07)

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Steven A. Feldman, Uniondale, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Lauren Del Giorno of counsel),  
for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (Sullivan, J.), rendered May 11, 2007, convicting him of criminal possession of stolen property in the fourth degree and attempted petit larceny, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the County Court erred in its pretrial ruling on the People's *Molineux* application is not properly before this Court as the defendant forfeited review of the *Molineux* ruling by virtue of his plea of guilty (*see People v Molineux*, 168 NY 264; *People v Graham*, 261 AD2d 414, 414; *People v Gerber*, 182 AD2d 252, 260; *People v Winchenbaugh*, 120 AD2d 811, 813). Review is also precluded by the defendant's valid waiver of his right to appeal (*see People v Graham*, 261 AD2d 413). The defendant's argument that he did not voluntarily enter his plea of guilty because it was coerced by an improper *Molineux* ruling is not preserved for appellate review because the defendant failed to move to withdraw his plea (*see CPL 470.05[2]*; *People v*

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*Clarke*, 93 NY2d 904, 906; *People v Lopez*, 71 NY2d 662, 665; *People v Thompson*, 28 AD3d 498). In any event, the record reflects that the defendant's guilty plea was knowing, intelligent, and voluntary (see *People v Garcia*, 92 NY2d 869, 870; *People v Fiumefreddo*, 82 NY2d 536, 543).

Finally, the defendant's valid waiver of his right to appeal forecloses appellate review of his challenge to the hearing court's suppression determination (see *People v Kemp*, 94 NY2d 831, 833; *People v Munford*, 37 AD3d 855; *People v Smith*, 35 AD3d 769; *People v Peoples*, 34 AD3d 503).

PRUDENTI, P.J., SKELOS, DILLON and ENG, 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