

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

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Submitted - March 11, 2009

PETER B. SKELOS, J.P.  
ANITA R. FLORIO  
RUTH C. BALKIN  
ARIEL E. BELEN, JJ.

2007-02259  
2007-02987

DECISION & ORDER

The People, etc., respondent,  
v Philip J. Legnini, appellant.

(Ind. Nos. 06-00570, 06-00789)

John P. Savoca, Yorktown Heights, N.Y., for appellant.

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

Appeals by the defendant from two judgments of the County Court, Orange County (DeRosa, J.), both rendered February 20, 2007, convicting him of criminal possession of a controlled substance in the third degree under indictment No. 06-00570, and criminal possession of a controlled substance in the fifth degree under indictment No. 06-00789, upon his pleas of guilty, and imposing sentences.

ORDERED that the judgments are affirmed.

The defendant's challenge to the voluntariness of his plea of guilty under indictment No. 06-00570 on the ground that he did not understand the crime to which he was pleading is unpreserved for appellate review as he never moved to vacate his plea on that basis (*see* CPL 470.05[2]; *People v Clarke*, 93 NY2d 904, 905; *People v Bevins*, 27 AD3d 572; *People v Martin*, 7 AD3d 640). In any event, the record demonstrates that the plea of guilty was knowing, voluntary, and intelligent (*see People v Fiumefreddo*, 82 NY2d 536, 543; *People v Lopez*, 71 NY2d 662, 666; *People v Harris*, 61 NY2d 9, 17).

April 21, 2009

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The defendant's valid waiver of his right to appeal precludes review of his current claim that his sentence was excessive (*see People v Hildalgo*, 91 NY2d 733; *People v Greene*, 13 AD3d 647).

SKELOS, J.P., FLORIO, BALKIN and BELEN, 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