

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

D23304  
T/nl

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - March 30, 2009

REINALDO E. RIVERA, J.P.  
JOSEPH COVELLO  
THOMAS A. DICKERSON  
CHERYL E. CHAMBERS, JJ.

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2007-07985

DECISION & ORDER

The People, etc., respondent,  
v Christopher Delston, appellant.

(Ind. No. 1424/03)

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Steven A. Feldman, Uniondale, N.Y. (Arza Feldman of counsel), for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Robert A. Schwartz and Cristin N. Connell of counsel), for respondent.

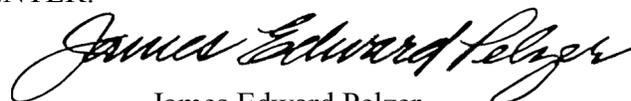
Appeal by the defendant, by permission, from so much of an order of the County Court, Nassau County (Carter, J.), entered July 2, 2007, as denied that branch of his motion which was, in effect, pursuant to CPL 440.20 to vacate a sentence of the same court (Belfi, J.), imposed February 25, 2004, upon his conviction of criminal sale of a controlled substance in the third degree, criminal possession of a controlled substance in the third degree, and criminal possession of a controlled substance in the fifth degree, upon a jury verdict.

ORDERED that the order is affirmed insofar as appealed from.

The County Court properly denied that branch of the defendant's motion which was, in effect, to vacate his sentence (*see People v Smith*, 73 NY2d 961, 962-963; *People v Hamilton*, 205 AD2d 706, 707).

RIVERA, J.P., COVELLO, DICKERSON and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

May 26, 2009

PEOPLE v DELSTON, CHRISTOPHER