

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

D23662
O/kmg

_____AD3d_____

Submitted - May 20, 2009

REINALDO E. RIVERA, J.P.
MARK C. DILLON
JOSEPH COVELLO
RANDALL T. ENG
L. PRISCILLA HALL, JJ.

2008-01546

DECISION & ORDER

The People, etc., respondent,
v Edwin Montalvo, appellant.

(Ind. No. 07-00372)

Janet A. Gandolfo, Sleepy Hollow, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Lois Cullen Valerio and Richard Longworth Hecht of counsel; Joseph A. Barca III on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Westchester County (Molea, J.), rendered January 8, 2008, convicting him of manslaughter in the first degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The Supreme Court providently exercised its discretion in denying, without a hearing, the defendant's application to withdraw his plea of guilty (*see* CPL 220.60[3]). The record supports the court's determination that the defendant's plea was entered knowingly, voluntarily, and intelligently (*see People v Hill*, 9 NY3d 189, 191, *cert denied* 128 S.Ct. 2430; *People v Fiumefreddo*, 82 NY2d 536, 543; *People v Harris*, 61 NY2d 9, 17). In addition, the defendant entered his negotiated plea of guilty with the assistance of competent counsel, in exchange for a favorable sentence promise (*see People v Pooler*, 58 AD3d 757). Finally, the defendant's claims of coercion

June 23, 2009

Page 1.

PEOPLE v MONTALVO, EDWIN

and innocence were generalized and unsubstantiated (*cf. People v Mann*, 32 AD3d 865, 866).

RIVERA, J.P., DILLON, COVELLO, ENG and HALL, 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