

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

D23666  
O/kmg

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

Submitted - May 26, 2009

ROBERT A. SPOLZINO, J.P.  
MARK C. DILLON  
HOWARD MILLER  
THOMAS A. DICKERSON, JJ.

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2006-09080

DECISION & ORDER

The People, etc., respondent,  
v Shaun Bolton, appellant.

(Ind. No. 253/06)

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Robert C. Mitchell, Riverhead, N.Y. (James H. Miller III of counsel), for appellant,  
and appellant pro se.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Grazia DiVincenzo of counsel),  
for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County  
(Crecca, J.), rendered September 6, 2006, convicting him of attempted burglary in the second degree,  
upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that his 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 also did not preserve for appellate review his  
challenge to the procedure pursuant to which he was sentenced as a persistent violent felony offender  
(*see People v Bouyea*, 64 NY2d 1140, 1142; *People v Sampson*, 30 AD3d 623). We decline to  
reach either of these contentions in the exercise of our interest of justice jurisdiction.

The defendant's contention that the indictment is defective is without merit (*see People*  
*v Hansen*, 95 NY2d 227, 230; *People v Lopez*, 71 NY2d 662; *People v Asabal*, 256 AD2d 520), as

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is his claim of ineffective assistance of counsel (*see People v Baldi*, 54 NY2d 137, 146-147).

The defendant's remaining contentions are either forfeited by his plea of guilty (*see People v Shearer*, 29 AD3d 608) or unpreserved for appellate review (*see People v Pellegrino*, 60 NY2d 636).

SPOLZINO, J.P., DILLON, MILLER and DICKERSON, 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