

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

D23954
W/cb

_____AD3d_____

Argued - February 6, 2009

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
THOMAS A. DICKERSON
CHERYL E. CHAMBERS, JJ.

2007-00613

DECISION & ORDER

The People, etc., respondent,
v Marcello Sansone, appellant.

(Ind. No. 4208/02)

Lynn W.L. Fahey, New York, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Francis F. Caputo,
Karen M. Griffin, and Susan Paulson of counsel), for respondent.

Appeal by the defendant from an amended judgment of the Supreme Court, Kings County (Lott, J.), rendered November 17, 2006, in effect, revoking a sentence of probation previously imposed by the same court upon a finding that he had violated a condition thereof, upon his admission, and imposing a sentence of imprisonment upon his previous conviction of attempted burglary in the second degree.

ORDERED that the amended judgment is affirmed.

The defendant did not appeal from the original judgment convicting him, upon his plea of guilty, of attempted burglary in the second degree. On this appeal from the amended judgment, the defendant is foreclosed from challenging the propriety of the original judgment, including, inter alia, his claims as to the validity of his plea of guilty (*see People v Trias*, 50 AD3d 828; *People v Kimbrough*, 25 AD3d 810; *People v Walker*, 23 AD3d 588; *People v Augustin*, 286 AD2d 442; *People v Oquendo*, 286 AD2d 740; *People v Riddick*, 269 AD2d 472). The defendant's reliance on *People v Louree* (8 NY3d 541) is misplaced. In *Louree*, the appeal was from the original judgment of conviction (*id.*).

August 18, 2009

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The sentence imposed upon the defendant's violation of probation was not excessive.

RIVERA, J.P., FLORIO, DICKERSON and CHAMBERS, 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