

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

D24421
H/hu

_____AD3d_____

Submitted - June 10, 2009

WILLIAM F. MASTRO, J.P.
HOWARD MILLER
THOMAS A. DICKERSON
CHERYL E. CHAMBERS, JJ.

2008-09269

DECISION & ORDER

The People, etc., respondent,
v LaVarr Rencher, appellant.

(Ind. No. 1376/03)

Joseph R. Faraguna, Sag Harbor, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Margaret E. Mainusch and
Joanna Hershey of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (Carter, J.), rendered July 1, 2008, convicting him of criminal sale of a controlled substance in the third degree and criminal possession of a controlled substance in the seventh degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

At the time he entered his plea of guilty, the defendant was expressly warned that if he failed to appear on the scheduled sentencing date, he would face the imposition of an enhanced sentence. The defendant failed to appear for sentencing, and did not return to court for several years until after he was rearrested. As the defendant violated the express terms and conditions of his plea agreement, the County Court was free to impose an enhanced sentence (*see People v Ferrante*, 44

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AD3d 869; *People v Douglas*, 2 AD3d 1050). Further, the sentence imposed, which was less than the maximum permissible sentences, was not excessive (*see People v Suitte*, 90 AD2d 80).

MASTRO, J.P., MILLER, 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