

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

D24889
C/kmg

_____AD3d_____

Argued - October 6, 2009

WILLIAM F. MASTRO, J.P.
HOWARD MILLER
DANIEL D. ANGIOLILLO
LEONARD B. AUSTIN, JJ.

2005-07569

DECISION & ORDER

The People, etc., respondent,
v Terry Moore, appellant.

(Ind. No. 5705/04)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Sholom J. Twersky, and Sabrina Thanse of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (DiMango, J.), rendered July 28, 2005, convicting him of attempted robbery in the first degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant knowingly, voluntarily, and intelligently waived his right to appeal as part of his plea agreement. The defendant's valid waiver of his right to appeal precludes appellate review of his contention that he was denied the effective assistance of counsel, except to the extent that the alleged ineffective assistance affected the voluntariness of the plea (*see People v Hughes*, 62 AD3d 1026, 1026). To the extent that the defendant is claiming that the ineffective assistance of counsel rendered his plea involuntary, the record does not support the defendant's claim that he was denied the effective assistance of counsel. He received an advantageous plea, and nothing in the record casts doubt on the apparent effectiveness of counsel (*see People v Ford*, 86 NY2d 397, 404; *People v Opoku*, 61 AD3d 705, 705).

November 17, 2009

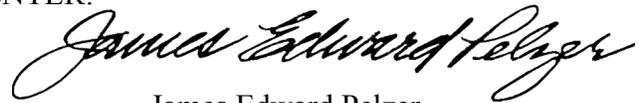
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The defendant's remaining contentions, including those raised in his supplemental pro se brief, are either unpreserved for appellate review or waived.

MASTRO, J.P., MILLER, ANGIOLILLO and AUSTIN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court