

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

D25230
O/kmg

_____AD3d_____

Argued - November 2, 2009

MARK C. DILLON, J.P.
ANITA R. FLORIO
HOWARD MILLER
DANIEL D. ANGIOLILLO, JJ.

2007-03342

DECISION & ORDER

The People, etc., respondent,
v Kevin Kruger, appellant.

(Ind. No. 06-00506)

Ostrer Rosenwasser, LLP, Chester, N.Y. (Benjamin Ostrer of counsel), for appellant.

Francis D. Phillips II, District Attorney, Goshen, N.Y. (Lauren E. Dunnock and Andrew R. Kass of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Orange County (De Rosa, J.), rendered March 22, 2007, convicting him of burglary in the first degree, upon a plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's challenge to the judgment convicting him of burglary in the first degree, upon his plea of guilty, is barred because the plea encompassed a waiver of his right to appeal, and the waiver was knowingly, voluntarily, and intelligently made, and was not coerced (*see People v Seaberg*, 74 NY2d 1, 10; *People v Finn*, 63 AD3d 755, 756, *lv denied* 13 NY3d 744; *People v Alqam*, 49 AD3d 776).

DILLON, J.P., FLORIO, MILLER and ANGIOLILLO, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

December 1, 2009

PEOPLE v KRUGER, KEVIN