

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

D25253  
O/cb

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Submitted - November 4, 2009

MARK C. DILLON, J.P.  
HOWARD MILLER  
RANDALL T. ENG  
L. PRISCILLA HALL  
SANDRA L. SGROI, JJ.

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2006-01756

DECISION & ORDER

The People, etc., respondent,  
v Michael A. Garrett, appellant.

(Ind. No. 94/05)

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Del Atwell, East Hampton, N.Y., for appellant.

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Joan H. McCarthy of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Dutchess County (Dolan, J.), rendered February 8, 2006, convicting him of criminal sale of a controlled substance in the third degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

To the extent that the defendant's claims of ineffective assistance of trial counsel involve matter dehors the record, they may not be reviewed on direct appeal (*see People v Johnson*, 64 AD3d 792; *People v Johnson*, 59 AD3d 738; *People v Dallas*, 31 AD3d 573, 574). Insofar as we are able to review the defendant's claim of ineffective assistance of counsel, the defendant's trial counsel provided meaningful representation (*see People v Henry*, 95 NY2d 563, 565, *cert denied sub nom.* 547 US 1040; *People v Benevento*, 91 NY2d 708, 713; *People v Baldi*, 54 NY2d 137, 147). Contrary to the defendant's contention, he received an advantageous plea, and the record does not cast doubt on the apparent effectiveness of counsel (*see People v Ford*, 86 NY2d 397, 404; *People v Dallas*, 31 AD3d at 574; *People v Boodhoo*, 191 AD2d 448, 449). Furthermore, the record does not support the defendant's contention that he was denied the effective assistance of counsel under

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the Federal Constitution (*see Hill v Lockhart*, 474 US 52, 59; *Strickland v Washington*, 466 US 668; *People v McDonald*, 1 NY3d 109, 113-114).

Moreover, since the defendant pleaded guilty with the understanding that he would receive the sentence which thereafter was actually imposed, he has no basis to now complain that his sentence was excessive (*see People v Schnoor*, 63 AD3d 760, *lv denied* 12 NY3d 929; *People v De Alvarez*, 59 AD3d 732; *People v Kazepis*, 101 AD2d 816).

DILLON, J.P., MILLER, ENG, HALL and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer  
Clerk of the Court