

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

D25542
Y/prt

_____AD3d_____

Submitted - November 23, 2009

WILLIAM F. MASTRO, J.P.
RUTH C. BALKIN
ARIEL E. BELEN
CHERYL E. CHAMBERS, JJ.

2009-02035

DECISION & ORDER

The People, etc., respondent,
v Matthew Delpesce, appellant.

(Ind. No. 348/07)

Robert C. Mitchell, Riverhead, N.Y. (Alfred J. Cicale of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Grazia DiVincenzo of counsel),
for respondent.

Appeal by the defendant from an amended judgment of the Supreme Court, Suffolk County (R. Doyle, J.), rendered February 17, 2009, revoking a sentence of probation previously imposed by the same court upon a finding that he had violated conditions thereof, upon his admission, and imposing a sentence of imprisonment and post-release supervision upon his previous conviction of attempted burglary in the second degree.

ORDERED that the amended judgment is affirmed.

Since “the defendant admitted to the violation[s] of probation with a full understanding that he would receive the term of imprisonment actually imposed at the time of resentencing, . . . he has no basis now to complain that his re-sentence was excessive” (*People v Grzywaczewski*, 61 AD3d 699, 700; *see People v Trias*, 50 AD3d 828, 828-829). In any event, the resentence was not excessive (*see People v Hobson*, 43 AD3d 1179, 1180; *People v Costanza*, 36 AD3d 829,

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830; *People v Arogundy*, 112 AD2d 1003, 1004; *People v Suitte*, 90 AD2d 80).

MASTRO, J.P., BALKIN, BELEN and CHAMBERS, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court