

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

D25879  
W/hu

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - December 16, 2009

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

---

2009-02604

DECISION & ORDER

The People, etc., respondent,  
v Arthur Mercer, appellant.

(Ind. No. 08-00852)

---

Marianne Karas, Armonk, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Valerie A. Livingston and Anthony J. Servino of counsel; Justin Tolbert on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Westchester County (Molea, J.), rendered February 19, 2009, convicting him of criminal possession of a controlled substance in the fourth degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's valid waiver of his right to appeal precludes appellate review of his contention that he was deprived of the effective assistance of counsel, except to the extent that the alleged ineffective assistance involved the voluntariness of his plea (*see People v Lopez*, 6 NY3d 248, 255; *People v Opoku*, 61 AD3d 705). To the extent that the defendant is claiming that the ineffective assistance of counsel rendered his plea involuntary, the record reveals that the defendant received an advantageous plea, and nothing in the record casts doubt on the effectiveness of counsel (*see People*

January 26, 2010

Page 1.

PEOPLE v MERCER, ARTHUR

*v Ford*, 86 NY2d 397; *People v Baldi*, 54 NY2d 137; *People v Gallo*, 54 AD3d 964; *People v Boodhoo*, 191 AD2d 448).

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, looping initial "J".

James Edward Pelzer  
Clerk of the Court