

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

D25964
O/kmg

_____AD3d_____

Submitted - January 6, 2010

PETER B. SKELOS, J.P.
JOSEPH COVELLO
RANDALL T. ENG
CHERYL E. CHAMBERS
SANDRA L. SGROI, JJ.

2009-01921

DECISION & ORDER

The People, etc., respondent,
v Lawrence Massey, appellant.

(Ind. No. 08-00746)

Barry Jay Skwiersky, Mount Vernon, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Lois Cullen Valerio and Anthony J. Servino of counsel; Justin L. Tolbert on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Westchester County (Molea, J.), rendered January 8, 2009, convicting him of assault in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

A motion to withdraw a plea of guilty rests within the sound discretion of the court (*see* CPL 220.60[3]; *People v Hughes*, 62 AD3d 1026), whose determination will generally not be disturbed absent an improvident exercise of discretion (*see People v DeLeon*, 40 AD3d 1008). Here, the Supreme Court providently exercised its discretion in denying, without a hearing, the defendant's pro se application to withdraw his plea of guilty, since his unsubstantiated claim of dissatisfaction with the representation by his attorney was refuted by his statements during the plea allocution (*see People*

February 2, 2010

Page 1.

PEOPLE v MASSEY, LAWRENCE

v Caufield, 57 AD3d 796; *People v Owens*, 43 AD3d 1185; *People v Morales*, 17 AD3d 487; *People v Rangolan*, 295 AD2d 543).

SKELOS, J.P., COVELLO, ENG, CHAMBERS 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, stylized initial "J".

James Edward Pelzer
Clerk of the Court