

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

D26168
C/prt

_____AD3d_____

Submitted - January 12, 2010

JOSEPH COVELLO, J.P.
FRED T. SANTUCCI
HOWARD MILLER
RANDALL T. ENG, JJ.

2005-11873

DECISION & ORDER

The People, etc., respondent,
v Alex Hines, appellant.

(Ind. No. 243/05)

Lynn W. L. Fahey, New York, N.Y., for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Ellen C. Abbot, and Danielle S. Fenn of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Chin-Brandt, J.), rendered May 18, 2005, convicting him of criminal possession of stolen property in the fourth degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The decision whether to permit a defendant to withdraw a previously-entered plea of guilty rests within the sound discretion of the sentencing court (*see People v Torres*, 68 AD3d 1142; *People v Miller*, 68 AD3d 1134). The record supports the court's determination that the defendant's plea was entered knowingly, voluntarily, and intelligently. The defendant entered his negotiated plea of guilty with the assistance of competent counsel, in exchange for a favorable sentence promise. Also, the defendant's claim of innocence was conclusory and unsubstantiated. Accordingly, the Supreme Court providently exercised its discretion in denying, without a hearing, the defendant's motion to withdraw his plea (*see People v Montalvo*, 63 AD3d 1089, 1089-1090).

The defendant's remaining contention is unpreserved for appellate review (*see People*

v Brown, 47 AD3d 1162, 1163; *People v Powers*, 302 AD2d 685, 685), and, in any event, is without merit (see *People v Gonzalez*, 299 AD2d 581, 582).

COVELLO, J.P., SANTUCCI, MILLER and ENG, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court