

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

D28073
C/hu

_____AD3d_____

Submitted - June 16, 2010

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
THOMAS A. DICKERSON
CHERYL E. CHAMBERS
PLUMMER E. LOTT, JJ.

2009-09990

DECISION & ORDER

The People, etc., respondent,
v Frank Moss, appellant.

(Ind. No. 10015/09)

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 (Hayes, J.), rendered June 30, 2009, convicting him of criminal possession of a weapon in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

To the extent that the defendant's contentions regarding the effectiveness of his attorney involve matter dehors the record, they may not be reviewed on direct appeal (*see People v Moss*, 70 AD3d 862; *People v Vasquez*, 40 AD3d 1134, 1135). Insofar as we are able to review the defendant's claim of ineffective assistance of counsel, the record demonstrates that he received an advantageous plea and nothing in the record casts doubt on the apparent effectiveness of counsel (*see People v Ford*, 86 NY2d 397, 404; *People v Hughes*, 62 AD3d 1026). Furthermore, the record does not support the defendant's contention that he was denied the effective assistance of counsel under the United States Constitution (*see Hill v Lockhart*, 474 US 52, 59; *Strickland v Washington*, 466 US 668; *People v McDonald*, 1 NY3d 109, 113-114).

Finally, the sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

RIVERA, J.P., FLORIO, DICKERSON, CHAMBERS and LOTT, 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