

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

D28595
O/ct

____AD3d____

Submitted - September 13, 2010

PETER B. SKELOS, J.P.
DANIEL D. ANGIOLILLO
L. PRISCILLA HALL
PLUMMER E. LOTT, JJ.

2007-05902

DECISION & ORDER

The People, etc., respondent,
v Gerald Vitarelli, appellant.

(Ind. No. 06-01163)

Stephen J. Pittari, White Plains, N.Y. (John F. Ryan of counsel), for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Lois Cullen Valerio and Anthony J. Servino of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Westchester County (Loehr, J.), rendered May 29, 2007, convicting him of attempted burglary in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that his sentence was so disproportionate to the crime as to constitute cruel and unusual punishment is without merit (*see People v Clerge*, 69 AD3d 955; *People v Miller*, 68 AD3d 1135; *People v Cruz*, 54 AD3d 962, 963).

SKELOS, J.P., ANGIOLILLO, HALL and LOTT, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court

October 12, 2010

PEOPLE v VITARELLI, GERALD