

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

D29025
O/prt

_____AD3d_____

Submitted - October 28, 2010

REINALDO E. RIVERA, J.P.
DANIEL D. ANGIOLILLO
SHERI S. ROMAN
SANDRA L. SGROI, JJ.

2009-11447
2009-11448
2010-02329

DECISION & ORDER

The People, etc., respondent,
v Shaheed S. James, appellant.

(S.C.I. Nos. 200/09, 117/09, 198/09)

Bruce A. Petito, Poughkeepsie, N.Y., for appellant.

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Joan H. McCarthy of counsel), for respondent.

Appeals by the defendant from three judgments of the County Court, Dutchess County (Dolan, J.), all rendered November 19, 2009, convicting him of assault in the second degree under Superior Court Information No. 200/09, attempted robbery in the second degree under Superior Court Information No. 117/09, and robbery in the third degree under Superior Court Information No. 198/09, upon his pleas of guilty, and imposing sentences.

ORDERED that the judgments are affirmed.

The defendant's contention that his pleas of guilty were not knowing, intelligent, and voluntary is unpreserved for appellate review since he failed to move to withdraw his pleas of guilty or to vacate the judgments of conviction (*see People v Budden*, _____AD3d_____, 2010 NY Slip Op 07183 [2d Dept 2010]; *People v Patel*, 74 AD3d 1098, *lv denied* 15 NY3d 854). The narrow exception to the preservation rule, which arises when the defendant's plea recitation of the facts underlying the crime casts significant doubt on the defendant's guilt or otherwise calls into question the voluntariness of the pleas (*see People v Lopez*, 71 NY2d 662, 666), is inapplicable in

this case. In any event, the record of the plea proceeding establishes that the defendant's pleas of guilty were entered knowingly, intelligently, and voluntarily (*see People v Garcia*, 92 NY2d 869, 870-871; *People v Fiumefreddo*, 82 NY2d 536, 543).

The County Court providently exercised its discretion in denying the defendant's request for youthful offender treatment (*see CPL 720.20 [1]*; *People v Casey*, 33 AD3d 929; *People v Greene*, 13 AD3d 647, 648; *People v Wallace*, 246 AD2d 676).

The sentences imposed were not excessive (*see People v Suitte*, 90 AD2d 80).

RIVERA, J.P., ANGIOLILLO, ROMAN and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan
Clerk of the Court