

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

D29056
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_____AD3d_____

Submitted - November 3, 2010

WILLIAM F. MASTRO, J.P.
ANITA R. FLORIO
THOMAS A. DICKERSON
ARIEL E. BELEN
PLUMMER E. LOTT, JJ.

2009-08780

DECISION & ORDER

The People, etc., respondent,
v Marcus Graham, appellant.

(Ind. No. 1363-08)

Steven A. Feldman, Uniondale, N.Y., for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Glenn Green of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Weber, J.), rendered June 23, 2009, convicting him of attempted robbery in the first degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that his plea was not voluntary because it was coerced is unpreserved for appellate review, since he did not move to withdraw his plea on that basis (*see* CPL 220.60[3]; *People v Santiago*, 71 AD3d 703, 704; *People v Mitchell*, 69 AD3d 883; *People v Bolton*, 63 AD3d 1087), and we decline to reach the contention in the exercise of our interest of justice jurisdiction.

November 16, 2010

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Since the defendant pleaded guilty with the understanding that he would receive the sentence which was thereafter actually imposed, he has no basis now to complain that the sentence was excessive (*see People v Hollingsworth*, 74 AD3d 1359, 1360; *People v Flakes*, 240 AD2d 428, 429; *People v Kazepis*, 101 AD2d 816).

MASTRO, J.P., FLORIO, DICKERSON, BELEN and LOTT, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court