

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

D29440
C/kmb

_____AD3d_____

Submitted - November 29, 2010

WILLIAM F. MASTRO, J.P.
STEVEN W. FISHER
SHERI S. ROMAN
SANDRA L. SGROI, JJ.

2009-05353

DECISION & ORDER

The People, etc., respondent,
v John Almodovar, appellant.

(Ind. No. 1354/08)

Maureen Galvin Dwyer, Northport, N.Y., for appellant.

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

Appeal by the defendant from a judgment of the County Court, Suffolk County (Gazzillo, J.), rendered February 27, 2009, convicting him of attempted criminal sale of a controlled substance in the third degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's claim that he was deprived of his right to effective assistance of counsel is, in part, based on matters de hors the record and to that extent, it may not be reviewed on direct appeal (*see People v Ramos*, 77 AD3d 773). Insofar as the record permits review of the claim, we find that defense counsel provided meaningful representation (*see People v Baldi*, 54 NY2d 137, 147).

We note that the defendant has appealed only from the judgment rendered under Indictment No. 1354/08 and, therefore, we do not reach the issues the defendant has raised with

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respect to another judgment rendered the same day under Superior Court Information No. 544/09, from which the defendant has not taken an appeal.

MASTRO, J.P., FISHER, 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