

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

D29636
Y/prt

_____AD3d_____

Argued - November 30, 2010

REINALDO E. RIVERA, J.P.
MARK C. DILLON
DANIEL D. ANGIOLILLO
LEONARD B. AUSTIN, JJ.

2009-01850

DECISION & ORDER

The People, etc., respondent,
v Nyanda Charley, appellant.

(Ind. No. 07-01531)

Anthony M. Giordano, Ossining, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Maria I. Wager and Lois Cullen Valerio of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Westchester County (Loehr, J.), rendered January 5, 2009, convicting him of murder in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

In general, a plea of guilty precludes appellate review of all nonjurisdictional issues (*see e.g. People v Motley*, 69 NY2d 870, 871-872; *People v Gerber*, 182 AD2d 252, 260). As part of his plea bargain, the defendant “waive[d] [appellate review of] all motions previously made in this case.” He also knowingly, voluntarily, and intelligently waived his right to appeal (*see People v Lopez*, 6 NY3d 248, 256). His current contention that CPL 710.70(2) nonetheless requires, or at least permits, this Court to review a prior order, in which the County Court denied that branch of his omnibus motion which was to suppress physical evidence seized pursuant to a search warrant, is therefore without merit (*see People v Kemp*, 94 NY2d 831, 833; *People v Pena*, 73 AD3d 1216).

The defendant’s contention that he was deprived of the effective assistance of trial counsel, to the extent that such issue is not encompassed in the defendant’s waiver of his right to

appeal, is without merit (*cf. People v Ramos*, 77 AD3d 773). There is also no merit to his claim that the County Court erred in denying his presentence motion to withdraw his plea of guilty (*see e.g. People v Fiumefreddo*, 82 NY2d 536, 548; *People v Tinsley*, 35 NY2d 926, 927).

RIVERA, J.P., DILLON, ANGIOLILLO and AUSTIN, 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