

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

D29919  
O/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - January 19, 2011

WILLIAM F. MASTRO, J.P.  
DANIEL D. ANGIOLILLO  
RUTH C. BALKIN  
PLUMMER E. LOTT  
ROBERT J. MILLER, JJ.

2010-04748

DECISION & ORDER

The People, etc., respondent, v  
Robert E. Johnson, Jr., appellant.

(Ind. No. 233/04)

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

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

Appeal by the defendant from an amended judgment of the County Court, Dutchess County (Dolan, J.), rendered April 27, 2010, revoking a sentence of probation previously imposed by the same court, upon a finding that he had violated a condition thereof, upon his admission, and imposing a sentence of imprisonment upon his previous conviction of criminal possession of a controlled substance in the fifth degree.

ORDERED that the amended judgment is affirmed.

Since the defendant admitted to the violation of probation with a full understanding that he would receive the term of imprisonment actually imposed at the time of sentencing, he has no basis now to complain that his sentence was excessive (*see People v Delpesce*, 68 AD3d 1131; *People v Grzywaczewski*, 61 AD3d 699, 700; *People v Trias*, 50 AD3d 828, 828-829; *People v*

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*Kazepis*, 101 AD2d 816, 817). In any event, the sentence imposed was not excessive (*see People v Suite*, 90 AD2d 80).

MASTRO, J.P., ANGIOLILLO, BALKIN, LOTT and MILLER, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court