

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

D30321  
W/kmb

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

Submitted - November 26, 2010

A. GAIL PRUDENTI, P.J.  
DANIEL D. ANGIOLILLO  
RANDALL T. ENG  
SHERI S. ROMAN, JJ.

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2009-03493

DECISION & ORDER

The People, etc., respondent,  
v Ismail Lopez, appellant.

(Ind. No. 5703/08)

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Steven Banks, New York, N.Y. (Eve Kessler of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Jodi L. Mandel of counsel; Tamara De Moor on the memorandum), for respondent.

Appeal by the defendant from a sentence of the Supreme Court, Kings County (DiMango, J.), imposed March 11, 2009, on the ground that the sentence was excessive.

ORDERED that the sentence is affirmed.

The record is insufficient to demonstrate that the defendant knowingly, voluntarily, and intelligently waived his right to appeal (*see People v David S.*, 78 AD3d 1205; *People v Shoman*, 74 AD3d 843; *People v Gladden*, 267 AD2d 400; *People v Dongo*, 244 AD2d 353). Accordingly, the defendant's purported waiver of his right to appeal does not preclude review of his contention that the Supreme Court should have afforded him youthful offender treatment. However, contrary to the defendant's contention, the Supreme Court providently exercised its discretion in denying his request for youthful offender treatment considering, inter alia, the serious nature of the offense he committed, and the otherwise favorable plea agreement (*see People v Huffman*, 47 AD3d 646;

March 8, 2011

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*People v Wright*, 44 AD3d 692; *People v Thompson*, 16 AD3d 603; cf. *People v Cruickshank*, 105 AD2d 325, *affd sub nom. People v Dawn Maria C.*, 67 NY2d 625).

PRUDENTI, P.J., ANGIOLILLO, ENG and ROMAN, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court