

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

D31047
W/prt

_____AD3d_____

Submitted - April 1, 2011

WILLIAM F. MASTRO, J.P.
REINALDO E. RIVERA
LEONARD B. AUSTIN
SHERI S. ROMAN, JJ.

2010-05647

DECISION & ORDER

The People, etc., respondent,
v William Hardee, appellant.

(Ind. No. 09-00764)

Clinton W. Calhoun III, White Plains, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Lois Cullen Valerio and Richard Longworth Hecht of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Westchester County (Hubert, J.), rendered May 6, 2010, 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 valid waiver of his right to appeal precludes review of his challenge to the factual sufficiency of his plea allocution (*see People v Brown*, 78 AD3d 723; *People v Johnson*, 73 AD3d 951).

Since the defendant failed to move to withdraw his plea, his current contention that the plea was not knowingly, voluntarily, and intelligently entered is unpreserved for appellate review (*see CPL 470.05[2]*; *People v LeGrady*, 50 AD3d 1059, 1060). In any event, the record reveals that the defendant's plea of guilty was entered knowingly, voluntarily, and intelligently (*see People v Fiumefreddo*, 82 NY2d 536; *People v Hollingsworth*, 74 AD3d 1359).

MASTRO, J.P., RIVERA, AUSTIN and ROMAN, JJ., concur.

ENTER: 
Matthew G. Kiernan

May 3, 2011

PEOPLE v HARDEE, WILLIAM

Clerk of the Court

May 3, 2011

PEOPLE v HARDEE, WILLIAM