

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

D31051
W/kmb

_____AD3d_____

Submitted - April 13, 2011

PETER B. SKELOS, J.P.
THOMAS A. DICKERSON
L. PRISCILLA HALL
LEONARD B. AUSTIN
ROBERT J. MILLER, JJ.

2008-03618

DECISION & ORDER

The People, etc., respondent,
v Robert Benitez, appellant.

(Ind. No. 13/07)

John P. Savoca, Yorktown Heights, N.Y., for appellant.

Adam B. Levy, District Attorney, Carmel, N.Y. (Mary Jane MacCrae of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Putnam County (Rooney, J.), rendered November 14, 2007, convicting him of course of sexual conduct against a child in the second degree and sexual abuse in the first degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

By pleading guilty, the defendant forfeited his claim that he was deprived of his right to testify before the grand jury (*see People v DeLuca*, 45 AD3d 777; *People v Standley*, 269 AD2d 614, 615).

The defendant's valid waiver of his right to appeal precludes appellate review of his claim that the agreed-upon sentence, which was, in fact, imposed, was excessive (*see People v Ramos*, 7 NY3d 737, 738; *People v Lopez*, 6 NY3d 248, 255; *People v Callahan*, 80 NY2d 273,

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281; *People v Seaberg*, 74 NY2d 1, 10; *People v Timberlake*, 82 AD3d 1134; *People v Lewis*, 73 AD3d 1212).

SKELOS, J.P., DICKERSON, HALL, AUSTIN and MILLER, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court