

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

D31303  
H/kmb

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

Submitted - April 15, 2011

WILLIAM F. MASTRO, J.P.  
RUTH C. BALKIN  
JOHN M. LEVENTHAL  
ARIEL E. BELEN, JJ.

2010-04870  
2010-04872

DECISION & ORDER

The People, etc., respondent,  
v James McCallum, appellant.

(Ind. Nos. 09-00774, 09-01090)

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Marianne Karas, Armonk, N.Y., for appellant.

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

Appeals by the defendant from two judgments of the Supreme Court, Westchester County (Holdman, J.), both rendered May 7, 2010, convicting him of criminal possession of a weapon in the second degree under Indictment No. 09-0774, and tampering with physical evidence under Indictment No. 09-1090, upon his pleas of guilty, and imposing sentences.

ORDERED that the judgments are affirmed.

Since the defendant did not move to withdraw his pleas of guilty, he failed to preserve for appellate review his claim that his pleas were not knowing, voluntary, or intelligent, and nothing the defendant said during the plea colloquy implicated the narrow exception to the preservation rule enunciated in *People v Lopez* (71 NY2d 662, 665) (*see People v Brown*, 78 AD3d 723, 723-724; *People v Patel*, 74 AD3d 1098, 1099).

Insofar as the record permits review of the defendant's claim that he was deprived of his right to the effective assistance of counsel in connection with his pleas of guilty, the defendant's

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claim is without merit (*see People v Watt*, \_\_\_\_\_AD3d\_\_\_\_\_, 2011 NY Slip Op 01872 [2d Dept 2011]; *People v Burgess*, 81 AD3d 969).

MASTRO, J.P., BALKIN, LEVENTHAL and BELEN, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court