

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

D31436
H/prt

_____AD3d_____

Submitted - May 11, 2011

REINALDO E. RIVERA, J.P.
DANIEL D. ANGIOLILLO
RANDALL T. ENG
CHERYL E. CHAMBERS
SANDRA L. SGROI, JJ.

2009-01063

DECISION & ORDER

The People, etc., respondent,
v Walter Mays, appellant.

(S.C.I. No. 316/08)

Salvatore C. Adamo, New York, N.Y., for appellant.

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Kirsten A. Rappleyea of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Dutchess County (Hayes, J.), rendered January 23, 2009, convicting him of criminal sexual act in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, the record shows that he entered a valid waiver of indictment, and freely and voluntarily consented to prosecution by superior court information (*see People v McKenzie*, 51 AD3d 823).

The defendant's contention that his plea of guilty was not knowingly, voluntarily, and intelligently made is unpreserved for appellate review since he did not move to withdraw his plea on that ground prior to sentencing (*see* CPL 470.05[2]; *People v Trent*, 74 AD3d 1370; *People v Simpson*, 52 AD3d 846; *People v Ramsey*, 49 AD3d 565; *People v Rusielewicz*, 45 AD3d 704). In any event, his plea was knowingly, voluntarily, and intelligently made (*see People v Fiumfreddo*, 82 NY2d 536, 543).

May 24, 2011

PEOPLE v MAYS, WALTER

Page 1.

The defendant's contention that he was deprived of the effective assistance of counsel is without merit (*see People v Ford*, 86 NY2d 397, 404).

Since the defendant pleaded guilty with the understanding that he would receive the sentence which was thereafter actually imposed, he has no basis to now complain that the sentence imposed was excessive (*see People v Kazepis*, 101 AD2d 816, 817).

RIVERA, J.P., ANGIOLILLO, ENG, CHAMBERS and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court