

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

D31651
W/kmb

_____AD3d_____

Submitted - May 25, 2011

WILLIAM F. MASTRO, J.P.
ANITA R. FLORIO
JOHN M. LEVENTHAL
ARIEL E. BELEN
JEFFREY A. COHEN, JJ.

2010-09254

DECISION & ORDER

The People, etc., respondent,
v Larry Gantt, Sr., appellant.

(Ind. No. 54/10)

Michael G. Paul, New City, N.Y., for appellant.

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Joan H. McCarthy of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Dutchess County (Hayes, J.), rendered August 27, 2010, convicting him of 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 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 Fiumefreddo*, 82 NY2d 536, 543; *People v Martinez*, 33 AD3d 631, 632; *cf. People v Muriale*, 159 AD2d 651).

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).

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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).

MASTRO, J.P., FLORIO, LEVENTHAL, BELEN and COHEN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court