

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

D31652
C/kmb

_____AD3d_____

Submitted - May 25, 2011

MARK C. DILLON, J.P.
JOSEPH COVELLO
RUTH C. BALKIN
PLUMMER E. LOTT
SHERI S. ROMAN, JJ.

2009-06830

DECISION & ORDER

The People, etc., respondent,
v Philip Hawthorne, appellant.

(Ind. No. 669/09)

Lynn W. L. Fahey, New York, N.Y., for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano and Sharon Y. Brodt of counsel; Andrew Dykens on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Chin-Brandt, J., at plea; Margulis, J., at sentence), rendered April 7, 2009, convicting him of use of a child in a sexual performance, 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 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 Benitez*, _____AD3d_____, 2011 NY Slip Op 03867, *1 [2d Dept 2011]).

DILLON, J.P., COVELLO, BALKIN, LOTT and ROMAN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court

June 7, 2011

PEOPLE v HAWTHORNE, PHILIP