

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

D32667
G/prt

_____AD3d_____

Submitted - October 7, 2011

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
THOMAS A. DICKERSON
PLUMMER E. LOTT, JJ.

2010-05372

DECISION & ORDER

The People, etc., respondent,
v Jamell Gibson, also known as
Jermell Gibson, appellant.

(S.C.I. No. 162/09)

Michael G. Paul, New City, 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 May 6, 2010, convicting him of criminal possession of a weapon in the second 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 entered 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 Jones*, 84 AD3d 1409, 1410; *People v Paulin*, 82 AD3d 910). In any event, the record demonstrates that the defendant's plea of guilty was entered knowingly, voluntarily, and intelligently (*see People v Fiumefreddo*, 82 NY2d 536, 543; *People v Paulin*, 82 AD3d at 910).

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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The defendant's contention that his sentence was excessive is without merit. The defendant received the minimum sentence allowable for a second felony offender convicted of a class C violent felony offense (*see* Penal Law § 70.06[6][b]; *People v Berrouet*, 84 AD3d 1392, *lv denied* 17 NY3d 813; *People v Seabrooks*, 82 AD3d 1130, 1132).

RIVERA, J.P., FLORIO, DICKERSON and LOTT, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive style with a large initial "M".

Matthew G. Kiernan
Clerk of the Court