

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

D32964
W/kmb

_____AD3d_____

Submitted - August 26, 2011

A. GAIL PRUDENTI, P.J.
REINALDO E. RIVERA
RANDALL T. ENG
JOHN M. LEVENTHAL
ROBERT J. MILLER, JJ.

2009-10754

DECISION & ORDER

The People, etc., respondent,
v Christopher Simms, appellant.

(Ind. No. 10566/08)

Steven Banks, New York, N.Y. (Adrienne Gantt of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Amy Appelbaum of counsel; Benjamin Barczewski on the memorandum), for respondent.

Appeal by the defendant, as limited by his motion, from a sentence of the Supreme Court, Kings County (Parker, J.), imposed October 30, 2009.

ORDERED that the sentence is affirmed.

The defendant's valid waiver of his right to appeal precludes review of his claim that he should have been sentenced as a youthful offender (*see People v Hidalgo*, 91 NY2d 733, 735; *People v Allen*, 82 NY2d 731, 763; *see also People v Valentin*, 15 AD3d 424, 424; *People v Friedlander*, 11 AD3d 556, 556; *People v Hubbard*, 288 AD2d 490, 490; *cf. People v Johnson*, 14 NY3d 483, 486).

PRUDENTI, P.J., RIVERA, ENG, LEVENTHAL and MILLER, JJ., concur.

ENTER:


Matthew G. Kiernan

Clerk of the Court

November 22, 2011

PEOPLE v SIMMS, CHRISTOPHER