

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

D33015  
H/kmb

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - November 9, 2011

PETER B. SKELOS, J.P.  
DANIEL D. ANGIOLILLO  
ARIEL E. BELEN  
PLUMMER E. LOTT  
SHERI S. ROMAN, JJ.

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2009-05089

DECISION & ORDER

The People, etc., respondent,  
v Matthew Mannina, appellant.

(Ind. No. 07-01015)

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Steven A. Feldman, Uniondale, N.Y., for appellant.

Francis D. Phillips II, District Attorney, Goshen, N.Y. (Robert H. Middlemiss of counsel), for respondent.

Appeal by the defendant from an amended judgment of the County Court, Orange County (DeRosa, J.), rendered May 14, 2009, revoking a sentence of probation previously imposed by the same court, upon a finding that he violated a condition thereof, upon his admission, and imposing a sentence of imprisonment upon his previous conviction of grand larceny in the fourth degree.

ORDERED that the amended judgment is affirmed.

The defendant's contention that the County Court improperly sentenced him upon his violation of a condition of his probation without ordering an updated presentence report is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Gambichler*, 25 AD3d 722, 723) and, in any event, without merit (*see People v Kuey*, 83 NY2d 278, 282; *cf. People v Pons*, 134 AD2d 378, 378-379).

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The sentence imposed was not excessive (*see People v Suite*, 90 AD2d 80).

SKELOS, J.P., ANGIOLILLO, BELEN, LOTT and ROMAN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan  
Clerk of the Court