

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

D33665
H/ct

_____AD3d_____

Submitted - January 4, 2012

REINALDO E. RIVERA, J.P.
RANDALL T. ENG
CHERYL E. CHAMBERS
SANDRA L. SGROI
ROBERT J. MILLER, JJ.

2009-03827

DECISION & ORDER

The People, etc., respondent,
v Ralphie Hayes, appellant.

(Ind. No. 128/08)

Salvatore C. Adamo, New York, N.Y., for appellant.

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Bridget Rahilly Steller of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Dutchess County (Dolan, J.), rendered April 2, 2009, convicting him of robbery 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 unreserved 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 Gantt*, 85 AD3d 815, 816). In any event, his plea was knowingly, voluntarily, and intelligently made (*see People v Fiumefreddo*, 82 NY2d 536, 543).

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).

January 17, 2012

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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).

RIVERA, J.P., ENG, CHAMBERS, SGROI and MILLER, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court