

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

D33727
N/G/kmb/hu

_____AD3d_____

Submitted - October 28, 2011

WILLIAM F. MASTRO, A.P.J.
RUTH C. BALKIN
L. PRISCILLA HALL
SHERI S. ROMAN, JJ.

2010-07673

DECISION & ORDER

The People, etc., respondent,
v Jermaine D. Holmes, appellant.

(Ind. No. 1398/09)

Robert C. Mitchell, Riverhead, N.Y. (Alfred J. Cicale of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Thomas C. Costello of counsel), for respondent.

Appeal by the defendant, as limited by his motion, from a sentence of the County Court, Suffolk County (J. Doyle, J.), imposed June 29, 2010, on the ground that the sentence was excessive.

ORDERED that the sentence is affirmed.

Contrary to the People's contention, the defendant did not validly waive his right to appeal (*see People v Lopez*, 6 NY3d 248, 256; *People v Wright*, 89 AD3d 874, 874-875). However, the sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

MASTRO, A.P.J., BALKIN, HALL and ROMAN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

May 23, 2012

PEOPLE v HOLMES, JERMAINE D.