

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

D33877
O/kmb

_____AD3d_____

Submitted - December 30, 2011

WILLIAM F. MASTRO, A.P.J.
MARK C. DILLON
RANDALL T. ENG
PLUMMER E. LOTT
ROBERT J. MILLER, JJ.

2010-11421

DECISION & ORDER

The People, etc., respondent,
v Vernon Johnson, appellant.

(Ind. No. 1753/10)

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

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

Appeal by the defendant, as limited by his motion, from a sentence of the County Court, Suffolk County (Weber, J.), imposed November 12, 2010, on the ground that the sentence was excessive.

ORDERED that the sentence is affirmed.

Under the particular circumstances of this case, the defendant's waiver of the right to appeal does not foreclose his right to challenge the sentence ultimately imposed (*see People v Banchs*, 22 AD3d 595; *People v Eldridge*, 8 AD3d 294, 295). Nevertheless, the sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

MASTRO, A.P.J., DILLON, ENG, LOTT and MILLER, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

February 7, 2012

PEOPLE v JOHNSON, VERNON