

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

D33896
W/kmb

_____AD3d_____

Submitted - January 18, 2012

PETER B. SKELOS, J.P.
THOMAS A. DICKERSON
L. PRISCILLA HALL
SHERI S. ROMAN
JEFFREY A. COHEN, JJ.

2011-03745

DECISION & ORDER

The People, etc., respondent,
v Ronald Haynes, appellant.

(Ind. No. 6705/03)

Ronald Haynes, Napanoch, N.Y., appellant pro se.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Jodi L. Mandel of counsel; Daniel Berman on the brief), for respondent.

Appeal by the defendant, by permission, from an order of the Supreme Court, Kings County (Del Giudice, J.), entered March 3, 2011, which denied, without a hearing, his motion, in effect, pursuant to CPL 440.20 to set aside a sentence of the same court imposed May 13, 2004, upon his conviction of criminal possession of a weapon in the third degree, upon his plea of guilty.

ORDERED that the order is affirmed.

Contrary to the defendant's contentions, Penal Law § 70.08, New York's persistent felony offender statute pursuant to which the defendant was sentenced, is not unconstitutional (*see People v Leon*, 10 NY3d 122, *cert denied* 554 US 926; *People v Winfield*, 63 AD3d 969; *cf. People v Quinones*, 12 NY3d 116, *cert denied* _____ US _____, 130 S Ct 104; *People v Rivera*, 5 NY3d 61, *cert denied* 546 US 984; *People v Stevens*, 45 AD3d 610).

The defendant's remaining contentions are without merit.

SKELOS, J.P., DICKERSON, HALL, ROMAN and COHEN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

February 7, 2012

PEOPLE v HAYNES, RONALD