

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

D34110
W/kmb

_____AD3d_____

Submitted - November 25, 2011

WILLIAM F. MASTRO, A.P.J.
PETER B. SKELOS
THOMAS A. DICKERSON
PLUMMER E. LOTT
JEFFREY A. COHEN, JJ.

2010-07932

DECISION & ORDER

The People, etc., respondent,
v Robert J. Musmacker, appellant.

(Ind. No. 508/09)

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

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

Appeal by the defendant, as limited by his motion, from a sentence of the County Court, Suffolk County (Kahn, J.), imposed July 21, 2010, on the ground that the sentence was excessive.

ORDERED that the sentence is affirmed.

The defendant knowingly, voluntarily, and intelligently pleaded guilty to all counts of the indictment, with the knowledge that he would be sentenced to an aggregate determinate term of 14 years in prison plus a period of 15 years of postrelease supervision, and that is the sentence that the County Court imposed. Under these circumstances, the defendant has no basis now upon which to complain that the sentence imposed was excessive (*see People v Tate*, 84 AD3d 1416, 1417; *People v Bunn*, 79 AD3d 1143, 1143).

MASTRO, A.P.J., SKELOS, DICKERSON, LOTT and COHEN, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

February 28, 2012

PEOPLE v MUSMACKER, ROBERT J.