

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

D34987
Y/prt

_____AD3d_____

Submitted - April 17, 2012

RUTH C. BALKIN, J.P.
JOHN M. LEVENTHAL
L. PRISCILLA HALL
JEFFREY A. COHEN, JJ.

2010-05754

DECISION & ORDER

The People, etc., respondent,
v Jose Portillo, appellant.

(Ind. No. 310/09)

Michael A. Fiechter, Bellmore, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Ilisa T. Fleischer and Cristin N. Connell of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Nassau County (Donnino, J.), rendered November 24, 2009, convicting him of murder in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's claim that he was deprived of the effective assistance of counsel at the sentencing proceeding is without merit. Specifically, counsel was not ineffective for failing to request that the sentencing court impose a sentence even more lenient than what was promised by the Supreme Court at the plea proceeding, especially when the presentence report indicated that the defendant failed to truly take responsibility for stabbing the unarmed victim in the back, as the victim was fleeing from him (*see People v Abrams*, 272 AD2d 406; *see generally People v Baldi*, 54 NY2d 137, 147; *Strickland v Washington*, 466 US 668).

May 30, 2012

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The defendant's remaining contention is without merit.

BALKIN, J.P., LEVENTHAL, HALL and COHEN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court