

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

D35223
G/hu

_____AD3d_____

Submitted - May 2, 2012

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

2010-08430

DECISION & ORDER

The People, etc., respondent,
v Lesly Constant, appellant.

(Ind. No. 595/09)

Lynn W. L. Fahey, New York, N.Y. (Paul Skip Laisure of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Keith Dolan of counsel; Gregory Musso on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Murphy, J.), rendered July 13, 2010, convicting him of manslaughter in the first degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's purported waiver of his right to appeal cannot be considered knowing, voluntary, and intelligent, as the defendant was incorrectly informed that his right to appeal did not include the right to appellate review of his sentence on the ground that it was excessive (*see People v Murray*, 68 AD3d 896, 896-897; *People v Caleb C.*, 32 AD3d 543; *People v Brown*, 13

June 6, 2012

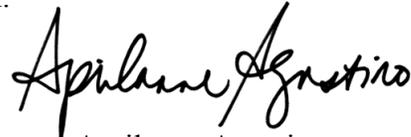
Page 1.

PEOPLE v CONSTANT, LESLY

AD3d 548, 549). Accordingly, we have considered the defendant's contention that the sentence imposed was excessive. Nonetheless, we find that contention to be without merit (*see People v Suite*, 90 AD2d 80).

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

ENTER:

A handwritten signature in black ink, appearing to read "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court