

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

D35441
G/kmb

_____AD3d_____

Submitted - June 6, 2012

DANIEL D. ANGIOLILLO, J.P.
ANITA R. FLORIO
JOHN M. LEVENTHAL
PLUMMER E. LOTT, JJ.

2011-02395

DECISION & ORDER

The People, etc., respondent,
v Arltonio Fenty, appellant.

(Ind. No. 2000/09)

Del Atwell, East Hampton, N.Y., for appellant.

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

Appeal by the defendant from a judgment of the County Court, Suffolk County (Braslow, J.), rendered February 23, 2010, as amended February 14, 2011, convicting him of attempted criminal possession of a weapon in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment, as amended, is affirmed.

The defendant's valid waiver of his right to appeal precludes appellate review of his contention that the sentence imposed was excessive (*see People v Lopez*, 6 NY3d 248, 255; *People v Appling*, 94 AD3d 1135). This valid waiver also precludes appellate review of his claim that he was denied the effective assistance of counsel, except to the extent that counsel's alleged ineffectiveness affected the voluntariness of his plea (*see People v Lopez*, 6 NY3d at 255; *People v Duah*, 91 AD3d 884, 885). To the extent that the defendant contends that ineffective assistance of counsel affected the voluntariness of his plea, the record demonstrates that he pleaded guilty to the charges set forth in the indictment in exchange for a favorable sentencing commitment, and nothing in the record casts doubt on the apparent effectiveness of counsel (*see People v Duah*, 91

June 27, 2012

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AD3d at 885; *People v Yarborough*, 83 AD3d 875).

ANGIOLILLO, J.P., FLORIO, LEVENTHAL and LOTT, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court