

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

D35630
Y/kmb

_____AD3d_____

Submitted - March 30, 2012

WILLIAM F. MASTRO, A.P.J.
REINALDO E. RIVERA
ARIEL E. BELEN
SHERI S. ROMAN
SANDRA L. SGROI, JJ.

2011-03852

DECISION & ORDER

The People, etc., respondent,
v Philip Fiorello, appellant.

(Ind. No. 623/10)

Keith O'Halloran, Westhampton Beach, N.Y., for appellant.

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

Appeal by the defendant, as limited by his motion, from a sentence of the Supreme Court, Suffolk County (Cohen, J.), imposed April 1, 2011, on the ground that the sentence was excessive.

ORDERED that the sentence is affirmed.

Inasmuch as “the defendant received the minimum sentence permitted by law, this Court has no authority to reduce [the sentence] as a matter of discretion in the interest of justice” (*People v Howard*, 50 AD3d 823, 823; *see* CPL 470.20[6]; Penal Law § 70.00[3][a][ii]; § 220.41; *People v Wilson*, 28 AD3d 796, 797; *People v Muller*, 294 AD2d 602).

MASTRO, A.P.J., RIVERA, BELEN, ROMAN and SGROI, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

July 18, 2012

PEOPLE v FIORELLO, PHILIP