

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

D54509
L/hu

_____AD3d_____

Submitted - November 27, 2017

CHERYL E. CHAMBERS, J.P.
SHERI S. ROMAN
ROBERT J. MILLER
COLLEEN D. DUFFY, JJ.

2015-01265
2015-01267

DECISION & ORDER

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

(Ind. Nos. 203/14, 1219/14)

Warren S. Landau, Cedarhurst, NY, for appellant.

Madeline Singas, District Attorney, Mineola, NY (Yael V. Levy and Laurie K. Gibbons of counsel), for respondent.

Appeals by the defendant from two judgments of the Supreme Court, Nassau County (Angelo A. Delligatti, J.), both rendered January 20, 2015, convicting him of aggravated family offense under Indictment No. 203/14, and criminal contempt in the first degree under Indictment No. 1219/14, upon his pleas of guilty, and imposing sentences.

ORDERED that the judgments are affirmed.

The defendant correctly contends that the waiver of the right to appeal was invalid (*see People v Lopez*, 6 NY3d 248, 256; *People v Mayo*, 77 AD3d 683, 684; *People v Olivier*, 48 AD3d 486, 486). In any event, the defendant's contentions about the duration of the orders of protection issued at the time of sentencing survive even a valid appeal waiver (*see People v Nieves*, 2 NY3d 310, 316; *People v Gibson-Parish*, 153 AD3d 1273; *People v Kumar*, 127 AD3d 882, 883; *People v Cedeno*, 107 AD3d 734, 734).


However, the defendant's challenge to the duration of the orders of protection issued at the time of sentencing is unpreserved for appellate review because he did not raise this issue at

sentencing or move to amend the orders on this ground (*see* CPL 470.05[2]; *People v Nieves*, 2 NY3d at 316-318; *People v Smith*, 147 AD3d 791, 791; *People v Kumar*, 127 AD3d at 883; *People v Maxineau*, 78 AD3d 732, 732), and we decline to review it in the exercise of our interest of justice jurisdiction (*see* *People v Smith*, 147 AD3d at 791; *People v Kumar*, 127 AD3d at 883; *People v Maxineau*, 78 AD3d at 732).

The defendant's remaining contention is without merit.

CHAMBERS, J.P., ROMAN, MILLER and DUFFY, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court