

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

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AD3d

ALAN D. SCHEINKMAN, P.J.
RUTH C. BALKIN
L. PRISCILLA HALL
COLLEEN D. DUFFY
VALERIE BRATHWAITE NELSON, JJ.

2016-11558

DECISION & ORDER

The People, etc., respondent,
v Michael Resnick, appellant.

(Ind. No. 922/14)

Paul Skip Laisure, New York, NY (Mark W. Vorkink of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, NY (John M. Castellano, Johnette Traill, and Merri Turk Lasky of counsel; Lorrie A. Zinno on the memorandum), for respondent.

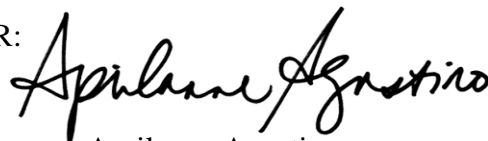
Appeal by the defendant, as limited by his motion, from a sentence of the Supreme Court, Queens County (Ronald Hollie, J.), imposed September 30, 2016, as amended October 4, 2016, upon his plea of guilty, on the ground that the sentence was excessive.

ORDERED that the sentence, as amended, is affirmed.

When the Supreme Court explained the defendant's waiver of his right to appeal to him, it improperly conflated the right to appeal with the rights automatically forfeited by a plea of guilty. Accordingly, the waiver of the right to appeal was invalid and, therefore, unenforceable (*see People v Wells*, 135 AD3d 976, 976). The sentence, however, was not excessive (*see People v Sutte*, 90 AD2d 80).

SCHEINKMAN, P.J., BALKIN, HALL, DUFFY and BRATHWAITE NELSON, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

March 7, 2018

PEOPLE v RESNICK, MICHAEL