

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

D55323
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_____AD3d_____

Argued - January 25, 2018

ALAN D. SCHEINKMAN, P.J.
JOHN M. LEVENTHAL
BETSY BARROS
VALERIE BRATHWAITE NELSON, JJ.

2014-00349

DECISION & ORDER

The People, etc., respondent,
v Darryl Cohen, appellant.

(Ind. No. 745/12)

Paul Skip Laisure, New York NY, for appellant.

Richard A. Brown, District Attorney, Kew Gardens, NY (John M. Castellano, Johnette Traill, and Christopher J. Blira-Koessler of counsel; Anisha Mirchandani on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Charles Lopresto, J.), rendered December 3, 2013, convicting him of burglary in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant validly waived his right to appeal (*see People v Sanders*, 25 NY3d 337). The defendant's valid waiver of his right to appeal precludes review of his contention that he was deprived of the effective assistance of counsel, since that contention does not relate to the voluntariness of his plea of guilty (*see People v Eccleston*, 113 AD3d 699, 699; *People v Hluboky*, 99 AD3d 1020, 1021).

Although the defendant's valid waiver of his right to appeal does not preclude review of his challenge to the legality of his sentence as a persistent violent felony offender, the defendant failed to preserve his contention for appellate review (*see People v Simpson*, 152 AD3d 627, 627;

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People v DelCarpio, 101 AD3d 746, 746-747). Under the circumstances of this case, we decline to exercise our interest of justice jurisdiction to review it.

SCHEINKMAN, P.J., LEVENTHAL, BARROS and BRATHWAITE NELSON, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court