

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

D55385
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_____AD3d_____

Submitted - January 16, 2018

ALAN D. SCHEINKMAN, P.J.
MARK C. DILLON
SYLVIA O. HINDS-RADIX
LINDA CHRISTOPHER, JJ.

2017-01534

DECISION & ORDER

The People, etc., respondent,
v Jonathan Castillo, appellant.

(Ind. No. 16-00339)

Del Atwell, East Hampton, NY, for appellant.

Anthony A. Scarpino, Jr., District Attorney, White Plains, NY (Jennifer Spencer and William C. Milaccio of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Westchester County (Barry E. Warhit, J.), rendered February 2, 2017, convicting him of criminal possession of a controlled substance in the third degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's waiver of his right to appeal was knowing, voluntary, and intelligent (*see People v Lopez*, 6 NY3d 248, 256; *People v Brown*, 122 AD3d 133, 141). A valid waiver of the right to appeal forfeits the right to challenge the effectiveness of trial counsel, except insofar as counsel's alleged deficiencies affected the voluntariness of the defendant's plea of guilty itself (*see People v Jessamy*, 137 AD3d 1056, 1056; *see also People v Thompson*, 150 AD3d 1156). Here, the defendant's valid waiver of his right to appeal precludes appellate review of his contention that he was denied the effective assistance of counsel by counsel's failure to apply for a certificate of relief from disabilities at the time of sentencing, since his contention does not relate to the voluntariness of his plea (*see People v Levy*, 91 AD3d 793, 793-794).

SCHEINKMAN, P.J., DILLON, HINDS-RADIX and CHRISTOPHER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

May 23, 2018

PEOPLE v CASTILLO, JONATHAN