

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

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_____AD3d_____

Submitted - May 16, 2018

REINALDO E. RIVERA, J.P.
ROBERT J. MILLER
COLLEEN D. DUFFY
HECTOR D. LASALLE, JJ.

2016-08276

DECISION & ORDER

The People, etc., respondent,
v Rafal M. Bogun, appellant.

(Ind. No. 258/16)

Paul Skip Laisure, New York, NY (Isa Chakarian of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, NY (John M. Castellano, Johnnette Traill, and William H. Branigan of counsel; Victoria Randall on the memorandum), for respondent.

Appeal by the defendant, as limited by his motion, from a sentence of the Supreme Court, Queens County (Barry Kron, J.), imposed July 19, 2016, upon his plea of guilty, on the ground that the sentence was excessive.

ORDERED that the sentence is affirmed.

The defendant's purported waiver of his right to appeal was invalid. The Supreme Court's limited colloquy did not ensure the defendant's understanding of the distinction between the right to appeal and other rights automatically forfeited upon a plea of guilty (*see People v Bradshaw*, 18 NY3d 257, 267; *People v Brown*, 122 AD3d 133, 137; *People v Johnson*, 109 AD3d 1004). Thus, the purported waiver does not preclude review of the defendant's excessive sentence claim. However, the sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

RIVERA, J.P., MILLER, DUFFY and LASALLE, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

June 20, 2018

PEOPLE v BOGUN, RAFAL M.