

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.

2016-09208

DECISION & ORDER

The People, etc., respondent,
v Tyrell Fuller, appellant.

(Ind. No. 8852/15)

Paul Skip Laisure, New York, NY (Angad Singh of counsel), for appellant.

Eric Gonzalez, District Attorney, Brooklyn, NY (Leonard Joblove and Rhea A. Grob of counsel; Robert Ho on the memorandum), for respondent.

Appeal by the defendant, as limited by his motion, from a sentence of the Supreme Court, Kings County (Matthew Sciarrino, Jr., J.), imposed July 8, 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 (*see People v Bradshaw*, 18 NY3d 257, 264; *People v Little*, 127 AD3d 1235, 1235-1236; *People v Brown*, 122 AD3d 133, 137). In light of the defendant's age, lack of experience with the criminal justice system, and mental health history, the Supreme Court's limited colloquy did not ensure the defendant's understanding of the distinction between the right to appeal and the other rights that are automatically forfeited on a plea of guilty (*see People v Bradshaw*, 18 NY3d at 264; *People v DeMicheli*, 129 AD3d 743). Thus, the 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

July 11, 2018

PEOPLE v FULLER, TYRELL