

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

D56162
T/htr

_____AD3d_____

Submitted - June 13, 2018

RUTH C. BALKIN, J.P.
CHERYL E. CHAMBERS
SHERI S. ROMAN
JOSEPH J. MALTESE
FRANCESCA E. CONNOLLY, JJ.

2016-01790

DECISION & ORDER

The People, etc., respondent,
v Marcos Ortizcora, appellant.

(Ind. No. 3134/13)

Paul Skip Laisure, New York, NY (William Kastin of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, NY (John M. Castellano, Johnnette Traill, and Christopher J. Blira-Koessler of counsel; Deanna Russo on the memorandum), for respondent.


Appeal by the defendant, as limited by his motion, from a sentence of the Supreme Court, Queens County (Ronald D. Hollie, J.), imposed February 1, 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 because the Supreme Court's oral colloquy improperly conflated the right to appeal with the rights automatically forfeited by a plea of guilty (*see People v Resnick*, 159 AD3d 724; *People v Wells*, 135 AD3d 976). However, the sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

BALKIN, J.P., CHAMBERS, ROMAN, MALTESE and CONNOLLY, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

July 25, 2018

PEOPLE v ORTIZCORA, MARCOS