

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

D56370
G/htr

_____AD3d_____

Submitted - March 30, 2018

ALAN D. SCHEINKMAN, P.J.
SHERI S. ROMAN
JEFFREY A. COHEN
COLLEEN D. DUFFY
HECTOR D. LASALLE, JJ.

2016-05351

DECISION & ORDER

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

(Ind. No. 1855/14)

Paul Skip Laisure, New York, NY (Hannah Zhao of counsel), for appellant.

Eric Gonzalez, District Attorney, Brooklyn, NY (Leonard Joblove and Jean M. Joyce of counsel; Ruby D. Andrade on the memorandum), for respondent.

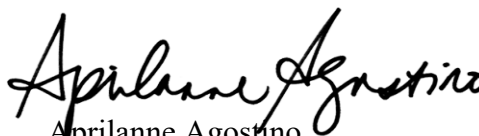
Appeal by the defendant, as limited by his motion, from a sentence of the Supreme Court, Kings County (Betty J. Williams, J.), imposed April 15, 2016, upon his plea of guilty, on the ground that the sentence was excessive.

ORDERED that the sentence is affirmed.

The defendant's purported waiver of his right to appeal was invalid (*see People v Chambers*, 142 AD3d 672). The Supreme Court failed to provide an adequate explanation of the right to appeal and, while the defendant signed a written waiver of appeal, the court failed to obtain confirmation that the defendant had read the document before signing it and that he understood it. The written waiver was not signed by counsel and the court failed to confirm that counsel had advised the defendant as to the right to appeal and the legal effect of the written waiver. Accordingly, the defendant's alleged waiver does not preclude review of his excessive sentence claim. However, the sentence imposed was not excessive (*see People v Suinte*, 90 AD2d 80).

SCHEINKMAN, P.J., ROMAN, COHEN, DUFFY and LASALLE, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

August 22, 2018

PEOPLE v AYALA, JONATHAN