

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

D56722  
Q/htr

\_\_\_\_\_AD3d\_\_\_\_\_

ALAN D. SCHEINKMAN, P.J.  
REINALDO E. RIVERA  
LEONARD B. AUSTIN  
JEFFREY A. COHEN  
BETSY BARROS, JJ.

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2016-08803

DECISION & ORDER

The People, etc., respondent,  
v Jonte L. Hatcher, appellant.

(Ind. No. 776/15)

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Laurette D. Mulry, Riverhead, NY (Alfred J. Cicale of counsel), for appellant.

Timothy D. Sini, District Attorney, Riverhead, NY (Timothy P. Finnerty of counsel),  
for respondent.

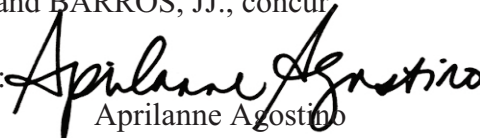
Appeal by the defendant, as limited by his motion, from a resentence of the Supreme Court, Suffolk County (Richard Ambro, J.), imposed June 29, 2016, on the ground that the resentence was excessive.

ORDERED that the resentence is affirmed.

Under the circumstances, the defendant's valid waiver of his right to appeal during the plea proceeding (*see People v Bradshaw*, 18 NY3d 257, 264-267; *People v Lopez*, 6 NY3d 248, 255; *People v Dietz*, 152 AD3d 717; *People v Oldham*, 146 AD3d 985) does not preclude appellate review of his contention that the resentence imposed was excessive inasmuch as he entered the plea under conditions that changed following the waiver (*see People v Tausinger*, 21 AD3d 1181, 1183; *see also People v Johnson*, 14 NY3d 483, 487). Nevertheless, the record reveals that the defendant received a more favorable term of imprisonment upon resentencing and that the resentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

SCHEINKMAN, P.J., RIVERA, AUSTIN, COHEN and BARROS, JJ., concur

ENTER:

  
Aprilanne Agostino  
Clerk of the Court

October 3, 2018

PEOPLE v HATCHER, JONTE L.