

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

D16171
G/cb

_____AD3d_____

Submitted - June 13, 2007

ROBERT W. SCHMIDT, J.P.
GABRIEL M. KRAUSMAN
GLORIA GOLDSTEIN
JOSEPH COVELLO
DANIEL D. ANGIOLILLO, JJ.

2004-08425

DECISION & ORDER

The People, etc., respondent,
v Angelo Passalacqua, appellant.

(Ind. No. 1020/04)

Robert C. Mitchell, Riverhead, N.Y. (Alfred J. Cicale of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Rosalind C. Gray of counsel),
for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Suffolk County (Mullen, J.), rendered August 23, 2004, convicting him of petit larceny, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the sentencing court failed to conduct a hearing to determine the amount of restitution and the defendant's ability to pay are unpreserved for appellate review (*see People v Taylor*, 245 AD2d 398; *People v Ali*, 233 AD2d 517; *People v Lugo*, 191 AD2d 648).

SCHMIDT, J.P., KRAUSMAN, GOLDSTEIN, COVELLO and ANGIOLILLO, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

September 11, 2007

PEOPLE v PASSALACQUA, ANGELO