

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

D19183
W/kmg

____AD3d____

Submitted - April 4, 2008

ROBERT A. LIFSON, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
JOHN M. LEVENTHAL, JJ.

2007-03031

DECISION & ORDER

The People, etc., respondent,
v Kenneth Dugin, appellant.

(Ind. No. 2772-06)

Richard L. Herzfeld, New York, N.Y., for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Ronnie Jane Lamm of counsel),
for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Hinrichs, J.), rendered February 26, 2007, convicting him of grand larceny in the third degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

Under the circumstances, the defendant's contention that the County Court erred in accepting his plea of guilty without inquiring into whether he was knowingly and voluntarily waiving a defense of intoxication (*see* Penal Law § 15.25) is unpreserved for appellate review (*see* CPL 470.05 [2]; *People v Sioleski*, 21 AD3d 501, 501-502; *cf. People v Reid*, 21 AD3d 1215, 1215-1216). In any event, the defendant's contention is without merit. Nothing in the defendant's allocution cast doubt upon his guilt, negated an essential element of the crime of grand larceny in the third degree, or suggested that a defense of intoxication was applicable (*cf. People v Jaworski*, 296 AD2d 597, 597-598).

LIFSON, J.P., COVELLO, ANGIOLILLO and LEVENTHAL, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

May 6, 2008

PEOPLE v DUGIN, KENNETH