

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

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_____AD3d_____

Submitted - September 2, 2008

ROBERT A. SPOLZINO, J.P.
DAVID S. RITTER
MARK C. DILLON
THOMAS A. DICKERSON, JJ.

2007-09635

DECISION & ORDER

The People, etc., respondent,
v Phenix Lewis, appellant.

(Ind. No. 07-00273)

David A. Brodsky, Central Valley, N.Y., for appellant.

Francis D. Phillips II, District Attorney, Goshen, N.Y. (Elizabeth L. Guinup and Andrew R. Kass of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Orange County (DeRosa, J.), rendered September 28, 2007, convicting him of burglary in the second degree (nine counts), upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant argues that the County Court improvidently exercised its discretion in denying his motion to withdraw his *Alford* plea (*see North Carolina v Alford*, 400 US 25). However, the arguments raised on appeal were not raised before the County Court and, therefore, are not preserved for appellate review (*see People v Smith*, 43 AD3d 474; *People v Wilson*, 37 AD3d 744; *People v Higgs*, 266 AD2d 233). In any event, all of the arguments are without merit (*see People v Alexander*, 97 NY2d 482; *Matter of Silmon v Travis*, 95 NY2d 470).

SPOLZINO, J.P., RITTER, DILLON and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 7, 2008

PEOPLE v LEWIS, PHENIX