

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

D20990

G/hu

_____AD3d_____

Submitted - October 15, 2008

ROBERT A. SPOLZINO, J.P.
FRED T. SANTUCCI
HOWARD MILLER
THOMAS A. DICKERSON
RANDALL T. ENG, JJ.

2005-07081

DECISION & ORDER

The People, etc., respondent,
v Alphonso Kirksey, appellant.

(Ind. No. 236/05)

Gary E. Eisenberg, New City, N.Y., for appellant.

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

Appeal by the defendant from a judgment of the County Court, Orange County (DeRosa, J.), rendered July 18, 2005, convicting him of attempted murder in the first degree and assault in the first degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is reversed, on the law, the plea is vacated, and the matter is remitted to the County Court, Orange County, for further proceedings in accordance herewith.

The court's failure to advise the defendant at the time of the plea that his sentence would include a mandatory period of postrelease supervision prevented his plea from being knowing, voluntary, and intelligent (*see People v Hill*, 9 NY3d 189; *People v Louree*, 8 NY3d 541; *People v Catu*, 4 NY3d 242). Accordingly, we reverse the judgment, vacate the plea, and remit the matter to the County Court, Orange County, for further proceedings (*see People v Thompson*, 47 AD3d 648).

SPOLZINO, J.P., SANTUCCI, MILLER, DICKERSON and ENG, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

November 12, 2008

PEOPLE v KIRKSEY, ALPHONSO