

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

D21660
C/hu

_____AD3d_____

Argued - November 25, 2008

STEVEN W. FISHER, J.P.
ANITA R. FLORIO
DANIEL D. ANGIOLILLO
EDWARD D. CARNI, JJ.

2007-03350

DECISION & ORDER

The People, etc., respondent,
v Vincent Fiammegta, appellant.

(Ind. No. 684/06)

Lynn W. L. Fahey, New York, N.Y., for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Morgan J. Dennehy of counsel; Robert Ho on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Firetog, J.), rendered April 4, 2007, convicting him of burglary in the second degree, upon his plea of guilty, and imposing sentence. Justice Angiolillo has been substituted for Justice Chambers (*see* NYCRR 670.1[c]).

ORDERED that the judgment is affirmed.

The court's inquiry regarding the circumstances concerning the defendant's discharge from a drug treatment program was sufficient to determine that the defendant violated the plea agreement (*see People v Kitchens*, 46 AD3d 577; *People v Covington*, 28 AD3d 575; *People v Garner*, 18 AD3d 669; *see also People v Valencia*, 3 NY3d 714; *cf. Torres v Berbary*, 340 F3d 63).

The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

FISHER, J.P., FLORIO, ANGIOLILLO and CARNI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

December 30, 2008

PEOPLE v FIAMMEGTA, VINCENT