

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

D22005
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_____AD3d_____

Submitted - January 7, 2009

PETER B. SKELOS, J.P.
FRED T. SANTUCCI
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON
CHERYL E. CHAMBERS, JJ.

2007-08176

DECISION & ORDER

The People, etc., respondent,
v Richard McCloud, appellant.

(Ind. No. 2910-06)

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

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Edward A. Bannan of counsel),
for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (J. Doyle, J.), rendered July 20, 2007, convicting him of attempted criminal sale of a controlled substance in the third degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The right of a defendant to withdraw a previously-entered plea of guilty rests within the sound discretion of the sentencing court (*see People v Seeber*, 4 NY3d 780; *People v Mann*, 32 AD3d 865; *People v Kucharczyk*, 15 AD3d 595). That decision will not be disturbed absent an improvident exercise of discretion (*see People v DeLeon*, 40 AD3d 1008). Contrary to the defendant's contentions, there is nothing in the record which would warrant disturbing the sentencing court's determination to deny his application to withdraw his plea of guilty.

SKELOS, J.P., SANTUCCI, ANGIOLILLO, DICKERSON and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

February 3, 2009

PEOPLE v McCLOUD, RICHARD