

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

D25564
W/nl

_____AD3d_____

Submitted - December 2, 2009

REINALDO E. RIVERA, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
JOHN M. LEVENTHAL
SHERI S. ROMAN, JJ.

2008-00436
2008-00438

DECISION & ORDER

The People, etc., respondent,
v Michael Margillo, appellant.

(Ind. Nos. 06-00128, 07-00880)

John P. Savoca, Yorktown Heights, N.Y., for appellant.

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

Appeals by the defendant from (1) a judgment of the County Court, Orange County (DeRosa, J.), rendered January 3, 2008, convicting him of criminal contempt in the first degree under Indictment No. 07-00880, upon his plea of guilty, and imposing sentence, and (2) an amended judgment of the same court, also rendered January 3, 2008, revoking a sentence of probation previously imposed by the same court, upon his admission that he had violated a condition thereof, and imposing a sentence of imprisonment upon his previous conviction of criminal contempt in the first degree under Indictment No. 06-00128.

ORDERED that the judgment and the amended judgment are affirmed.

The defendant contends that his plea of guilty to criminal contempt in the first degree under Indictment No. 07-00880 was not knowingly, voluntarily, and intelligently given because the County Court failed to advise him, at the time of the plea, that it intended to enter, at sentencing, an order of protection in favor of the complainant. The defendant's contention is without merit since

January 5, 2010

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the order of protection was not part of the sentence imposed, and may be entered independently of the plea agreement (*see People v Nieves*, 2 NY3d 310, 316; *People v Dixon*, 16 AD3d 517; *People v Peters*, 232 AD2d 432; *People v Ela*, 226 AD2d 474; *People v Oliver*, 182 AD2d 716).

Contrary to the defendant's contention, the sentencing minutes reveal that the sentencing court clearly and unambiguously pronounced sentence with respect to his convictions of both of the counts of criminal contempt in the first degree charged against him, one as to each indictment (*see* CPL 380.20).

RIVERA, J.P., COVELLO, ANGIOLILLO, LEVENTHAL and ROMAN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court