

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

D26852
O/prt

_____AD3d_____

Submitted - March 5, 2010

STEVEN W. FISHER, J.P.
JOHN M. LEVENTHAL
ARIEL E. BELEN
SANDRA L. SGROI, JJ.

2008-08636

DECISION & ORDER

The People, etc., respondent,
v Flaviano Quintero, appellant.

(Ind. No. 7/08)

Steven A. Feldman, Uniondale, N.Y., for appellant.

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Joan H. McCarthy of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Dutchess County (Dolan, J.), rendered September 9, 2008, convicting him of predatory sexual assault and rape in the first degree, upon his plea of guilty, and imposing sentence. The appeal brings up for review the denial, after a hearing, of that branch of the defendant's omnibus motion which was to suppress a statement the defendant made to law enforcement officials.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, the record supports the hearing court's conclusion that his statement regarding a laptop computer was spontaneous and not the result of the functional equivalent of interrogation (*see People v Stockdale*, 270 AD2d 294, 294-295; *People v Betancourt*, 173 AD2d 481, 482; *cf. People v Ferro*, 63 NY2d 316, 322-323, *cert denied* 472 US 1007).

FISHER, J.P., LEVENTHAL, BELEN and SGROI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

April 13, 2010

PEOPLE v QUINTERO, FLAVIANO