

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

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Submitted - April 7, 2010

PETER B. SKELOS, J.P.
MARK C. DILLON
DANIEL D. ANGIOLILLO
RANDALL T. ENG
SANDRA L. SGROI, JJ.

2008-09368

DECISION & ORDER

The People, etc., respondent,
v George Babcock, appellant.

(Ind. No. 08-00505)

Jane M. Bloom, Rock Hill, N.Y., for appellant.

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

Appeal by the defendant from a judgment of the County Court, Orange County (DeRosa, J.), rendered October 6, 2008, convicting him of sodomy in the first degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that his plea was not knowing or voluntary is unpreserved for appellate review, since he did not move to withdraw his plea on these grounds (*see People v Mitchell*, 69 AD3d 883). The narrow exception to the preservation rule (*see People v Lopez*, 71 NY2d 662, 666) is inapplicable here (*see People v Smith*, 43 AD3d 474).

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

SKELOS, J.P., DILLON, ANGIOLILLO, ENG and SGROI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

April 20, 2010

PEOPLE v BABCOCK, GEORGE