

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

D28707
C/prt

_____AD3d_____

Submitted - October 6, 2010

PETER B. SKELOS, J.P.
FRED T. SANTUCCI
DANIEL D. ANGIOLILLO
L. PRISCILLA HALL
SHERI S. ROMAN, JJ.

2007-10538

DECISION & ORDER

The People, etc., respondent,
v Jesse Hoyte, appellant.

(Ind. No. 7407/06)

Douglas G. Rankin, P.C., Brooklyn, N.Y., for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Terry-Ann Llewellyn of counsel; Samuel C. Telzak on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Heffernan, Jr., J.), rendered November 5, 2007, convicting him of burglary in the first degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contentions that his plea allocution was factually insufficient and that his plea was coerced are unpreserved for appellate review. The defendant did not move to withdraw his plea or to vacate his judgment of conviction, nor did he otherwise raise these issues before the Supreme Court (*see* CPL 470.05[2]; *People v Toxey*, 86 NY2d 725; *People v Rojas*, 74 AD3d 1369; *People v Colston*, 68 AD3d 1130; *People v Lopez*, 34 AD3d 599; *People v Reels*, 17 AD3d 488). The narrow exception to the preservation rule does not apply in this case, since the defendant's recitation of the facts underlying the crime did not cast significant doubt on his guilt or otherwise call into question the voluntariness of the plea (*see People v Lopez*, 71 NY2d 662, 666). In any event, the facts admitted in the defendant's plea allocution were sufficient to support the defendant's plea of guilty, and the defendant's claim that his plea was coerced is unsupported by the record (*see*

People v Patel, 74 AD3d 1098; *People v Colston*, 68 AD3d 1130; *People v Elcine*, 43 AD3d 1176; *People v Lopez*, 34 AD3d 599; *People v Reels*, 17 AD3d 488).

SKELOS, J.P., SANTUCCI, ANGIOLILLO, HALL and ROMAN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court