

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

D28856
G/kmg

_____AD3d_____

Submitted - October 20, 2010

STEVEN W. FISHER, J.P.
MARK C. DILLON
RUTH C. BALKIN
CHERYL E. CHAMBERS
SANDRA L. SGROI, JJ.

2009-10026

DECISION & ORDER

The People, etc., respondent,
v Angela Nathan, appellant.

(S.C.I. No. 172/09)

Arza 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 (Hayes, J.), rendered October 16, 2009, convicting her of burglary in the third degree, upon her plea of guilty, and imposing sentence, including restitution in the sum of \$878.50.

ORDERED that the judgment is affirmed.

The defendant maintains that the restitution component of the judgment in the sum of \$878.50 should be vacated because the County Court failed to fix the time and manner of performance on the record at the time of sentencing. This claim is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Toxey*, 86 NY2d 725, 726; *People v Bruno*, 73 AD3d 941, 942; *People v Harris*, 72 AD3d 1110, 1112). In any event, contrary to the defendant's contention, the record reveals that the County Court fixed the amount of restitution and directed the manner of performance

December 14, 2010

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at sentencing (*see* CPL 420.10; Penal Law § 60.27; *People v Brown*, 70 AD3d 1378, 1379; *cf. People v Jackson*, 180 AD2d 755).

FISHER, J.P., DILLON, BALKIN, CHAMBERS and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court