

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

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Y/hu

_____AD3d_____

Argued - November 1, 2010

PETER B. SKELOS, J.P.
RUTH C. BALKIN
RANDALL T. ENG
LEONARD B. AUSTIN, JJ.

2005-09991

DECISION & ORDER

The People, etc., respondent,
v Jose Rodriguez, appellant.

(Ind. No. 1170/04)

Kent V. Moston, Hempstead, N.Y. (Jeremy L. Goldberg and Argun M. Ulgen of counsel), for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Tammy J. Smiley, Judith R. Sternberg, and Barbara Kornblau of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Nassau County (Ort, J.), rendered September 20, 2005, convicting him of burglary in the first degree (three counts), robbery in the first degree (two counts), criminal possession of a weapon in the second degree, and assault in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The record establishes that the defendant knowingly, voluntarily, and intelligently waived his right to appeal (*see People v Lopez*, 6 NY3d 248, 256; *People v Seaberg*, 74 NY2d 1, 11). There was no effort to conceal error, and the defendant was made fully aware of any appealable issues (*see People v Holman*, 89 NY2d 876, 878). Accordingly, the defendant's waiver of the right to appeal, made as part of his sentencing agreement after a jury verdict of guilty, was valid and precludes

November 30, 2010

PEOPLE v RODRIGUEZ, JOSE

Page 1.

review of the issues raised on appeal (*see People v Lopez*, 6 NY3d 248; *People v Holman*, 89 NY2d 876; *People v Seaberg*, 74 NY2d 1).

SKELOS, J.P., BALKIN, ENG and AUSTIN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court