

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

D29247
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_____AD3d_____

Submitted - November 15, 2010

REINALDO E. RIVERA, J.P.
THOMAS A. DICKERSON
PLUMMER E. LOTT
SHERI S. ROMAN, JJ.

2009-04459

DECISION & ORDER

The People, etc., respondent,
v Tomas Peck, appellant.

(Ind. No. 657-08)

Robert C. Mitchell, Riverhead, N.Y. (Alfred J. Cicale of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Marion M. Tang of counsel),
for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Suffolk County (R. Doyle, J.), rendered April 1, 2009, convicting him of murder in the second degree, rape in the first degree (two counts), and criminal sexual act in the first degree (two counts), upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is reversed, on the law, the plea is vacated, and the matter is remitted to the Supreme Court, Suffolk County, for further proceedings in accordance herewith.

The plea minutes reveal that the defendant was not informed, prior to entering his plea, that postrelease supervision was required to be part of any sentence with a determinate prison term. Therefore, the judgment must be reversed and the plea must be vacated (*see People v Hill*, 9 NY3d 189, 191, *cert denied* 553 US 1048; *People v Louree*, 8 NY3d 541, 544-545; *People v Catu*, 4 NY3d 242; *People v Lindsay*, 72 AD3d 845, 846; *People v Wilcox*, 70 AD3d 1059; *People v Curry*, 65 AD3d 1373; *People v Key*, 64 AD3d 793; *People v Gibbs*, 61 AD3d 699). Accordingly, we remit the matter to the Supreme Court, Suffolk County, for further proceedings on the indictment, including a new plea, if the defendant be so advised.

November 30, 2010

PEOPLE v PECK, TOMAS

Page 1.

In light of our determination, the defendant's remaining contention has been rendered academic.

RIVERA, J.P., DICKERSON, LOTT and ROMAN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court