

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

D30336
W/kmb

_____AD3d_____

Submitted - February 23, 2011

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
THOMAS A. DICKERSON
L. PRISCILLA HALL
SHERI S. ROMAN, JJ.

2009-06036

DECISION & ORDER

The People, etc., respondent,
v Larry Smith, appellant.

(Ind. No. 08-00717)

Robert Schuster, Mount Kisco, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Maria I. Wager, Lois Cullen Valerio, and Richard Longworth Hecht of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Westchester County (Molea, J.), rendered May 21, 2009, 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 claim regarding an alleged promise that, upon pleading guilty, he would be committed to a correctional facility within a particular geographic area, involves an issue that is de hors the record and, thus, not reviewable on direct appeal (*see People v Kinchen*, 60 NY2d 772, 773-774; *Matter of Benjamin S.*, 55 NY2d 116, 120-121; *People v Da Forno*, 53 NY2d 1006, 1008; *People v Chrysler*, 288 AD2d 318, 319; *People v Branch*, 288 AD2d 55, 55-56; *People v Finch*, 279 AD2d 588; *People v St. Gelais*, 245 AD2d 318, 319; *People v Watford*, 239 AD2d 367, 367-368).

RIVERA, J.P., FLORIO, DICKERSON, HALL and ROMAN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court

March 8, 2011

PEOPLE v SMITH, LARRY