

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

D30651  
W/kmb

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Submitted - March 7, 2011

REINALDO E. RIVERA, J.P.  
DANIEL D. ANGIOLILLO  
RANDALL T. ENG  
SANDRA L. SGROI, JJ.

2010-02996

DECISION & ORDER

The People, etc., respondent,  
v Wayne Francis, appellant.

(Ind. No. 432/09)

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Steven A. Feldman, Uniondale, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Barbara Kornblau of counsel;  
Matthew C. Frankel on the brief), for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (Peck, J.), rendered March 10, 2010, convicting him of identity theft in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

On appeal, the defendant contends that the County Court erred in imposing restitution without a hearing because, inter alia, there was insufficient evidence in the record to allow the County Court to determine the amount he should pay. However, since the defendant failed to request a restitution hearing, and did not object to the amount of restitution he was required to pay, his present claims regarding the imposition of restitution are unpreserved for appellate review (*see People v Horne*, 97 NY2d 404, 414 n 3; *People v Nelson*, 77 AD3d 973, *lv denied* 15 NY3d 954; *People v Harris*, 72 AD3d 1110, 1112; *People v Isaacs*, 71 AD3d 1161; *People v Golgoski*, 40 AD3d 1138).

March 29, 2011

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The defendant's challenge to the imposition of the mandatory surcharge and crime victim assistance fee also is unpreserved for appellate review (*see People v Ruz*, 70 NY2d 942, 943; *People v Fauntleroy*, 57 AD3d 1167, 1168; *People v Ziolkowski*, 9 AD3d 915; *People v Acevedo*, 243 AD2d 572, 573).

RIVERA, J.P., ANGIOLILLO, ENG and SGROI, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court