

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

D31498
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_____AD3d_____

Submitted - May 12, 2011

REINALDO E. RIVERA, J.P.
RUTH C. BALKIN
PLUMMER E. LOTT
LEONARD B. AUSTIN, JJ.

2007-10240

DECISION & ORDER

The People, etc., respondent,
v Robert Ray Okamura, appellant.

(S.C.I. No. 07-00012)

Richard L. Herzfeld, New York, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Lois Cullen Valerio, Richard Longworth Hecht, and Anthony J. Servino of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Westchester County (Bellantoni, J.), rendered October 4, 2007, convicting him of attempted criminal sexual act in the first degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant claims that his plea was not knowing, voluntary, and intelligent because he was not advised, before he pleaded guilty, of the possibility of civil confinement or supervision under the Sex Offender Management and Treatment Act (L 2007, ch 7, Mental Hygiene Law § 10.01 *et seq.*) (hereinafter SOMTA), which provides for civil confinement or supervision of certain sex offenders after their prison terms are completed. The defendant's claim is without merit. The defendant has not demonstrated that he was not advised by his attorney, before he pleaded guilty, of the potential consequences to him of SOMTA, and he has likewise not demonstrated that SOMTA

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“would have been a significant factor in the evaluation of [his] plea bargain” (*People v Harnett*, 16 NY3d 200, 207-208). Consequently, he has not made the factual showing necessary to demonstrate that his plea was not knowing and voluntary (*id.* at 207-208).

RIVERA, J.P., BALKIN, LOTT and AUSTIN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court