

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

D31851

W/nl

_____AD3d_____

Submitted - June 8, 2011

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

2008-08242

DECISION & ORDER

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

(Ind. No. 07-01698)

Marianne Karas, Armonk, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Hae Jin Liu, Laurie G. Sapakoff, and Richard Longworth Hecht of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Westchester County (Cohen, J.), rendered July 22, 2008, convicting him of rape in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that his plea of guilty was not knowingly, voluntarily, and intelligently entered because the County Court did not adequately advise him of all the ramifications of the Sex Offender Registration Act (Correction Law article 6-C; hereinafter SORA) is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Hussain*, 309 AD2d 818, 818) and, in any event, without merit (*see People v Gravino*, 14 NY3d 546, 550, 556, 559). The defendant's contention that his plea of guilty was not knowingly, voluntarily, and intelligently entered because he was deprived of the effective assistance of counsel due to defense counsel's alleged failure to adequately advise him of all of SORA's ramifications is based "principally on matter dehors the record, which cannot be

reviewed on direct appeal” (*People v Griffith*, 78 AD3d 1194, 1196; see *People v Rivera*, 33 AD3d 942, 943).

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

ENTER:


Matthew G. Kiernan
Clerk of the Court