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

D31945
W/kmb

_____AD3d_____ Submitted - June 9, 2011

A. GAIL PRUDENTI, P.J.
RANDALL T. ENG
L. PRISCILLA HALL
PLUMMER E. LOTT, JJ.

2010-06760 DECISION & ORDER

The People, etc., respondent,
v Russell Carthage, appellant.

(Ind. No. 1764/09)

Meredith A. Bettenhauser, Garden City, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Tammy J. Smiley and Donald Berk of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (Donnino, J.), rendered June 23, 2010, convicting him of robbery 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 knowing, voluntary, and intelligent is unpreserved for appellate review since he did not move to withdraw his plea on that ground prior to sentencing (*see People v Trent*, 74 AD3d 1370; *People v Simpson*, 52 AD3d 846; *People v Ramsey*, 49 AD3d 565; *People v Rusielewicz*, 45 AD3d 704). In any event, the defendant's plea was knowingly, voluntarily, and intelligently entered (*see People v Morales*, 60 AD3d 546; *People v Provosty*, 141 AD2d 867, 868; *see generally People v Fiumefreddo*, 82 NY2d 536, 543).

By pleading guilty, the defendant forfeited his challenge to the County Court's exercise of its statutory authority (*see* CPL 210.45[9][d]) to extend the time allotted to the People for re-presenting the charges to another grand jury following the dismissal of the original indictment

(*see People v Motley*, 69 NY2d 870, 871-872; *People v Sobotker*, 61 NY2d 44, 48; *see also People v Hansen*, 95 NY2d 227; *People v Di Raffaele*, 55 NY2d 234).

PRUDENTI, P.J., ENG, HALL and LOTT, JJ., concur.

ENTER:

Matthew G. Kiernan
Clerk of the Court