

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

D33224  
N/kmb

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - November 21, 2011

DANIEL D. ANGIOLILLO, J.P.  
THOMAS A. DICKERSON  
PLUMMER E. LOTT  
ROBERT J. MILLER, JJ.

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2011-04192

DECISION & ORDER

The People, etc., respondent,  
v Giovanni Avelar, appellant.

(S.C.I. No. 10-00497)

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Greenwald Law Offices, Chester, N.Y. (Gary Greenwald of counsel), for appellant.

Francis D. Phillips II, District Attorney, Goshen, N.Y. (Andrew R. Kass of counsel),  
for respondent.

Appeal by the defendant from a judgment of the County Court, Orange County (De Rosa, J.), rendered March 29, 2011, 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's valid waiver of his right to appeal forecloses appellate review of the denial of that branch of his motion which was to dismiss the charge against him in furtherance of justice, in effect, pursuant to CPL 210.40 (*see People v Cortes*, 44 AD3d 538, 538).

The defendant's remaining contentions are also barred by the defendant's valid waiver of his right to appeal.

ANGIOLILLO, J.P., DICKERSON, LOTT and MILLER, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court

December 13, 2011

PEOPLE v AVELAR, GIOVANNI