

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

D33395  
O/kmb

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Submitted - December 1, 2011

MARK C. DILLON, J.P.  
ANITA R. FLORIO  
CHERYL E. CHAMBERS  
ROBERT J. MILLER, JJ.

2011-00527

DECISION & ORDER

The People, etc., respondent,  
v Jimmy Alonzo, appellant.

(Ind. No. 2263/09)

Mark Diamond, New York, N.Y., for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Michael J. Miller and Thomas Constant of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Hinrichs, J.), rendered September 7, 2010, convicting him of robbery in the first degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant contends that his plea of guilty was not knowing, voluntary, and intelligent. Although this contention survives the defendant's otherwise valid waiver of the right to appeal (*see People v Seaberg*, 74 NY2d 1, 10; *People v Williams*, 84 AD3d 1417, 1418; *People v Morrow*, 48 AD3d 704, 705), it is without merit. Several times during the defendant's plea hearing he was asked if he had voluntarily participated in the subject robbery, and he responded that he had been forced to participate. However, although the defendant made statements that raised the possibility of a duress defense and the lack of the requisite criminal intent, the trial court properly conducted further inquiries to ensure that the defendant's plea was knowing, voluntary, and intelligent (*see People v Lopez*, 71 NY2d 662, 664; *People v Mead*, 27 AD3d 767). The defendant's

December 27, 2011

Page 1.

PEOPLE v ALONZO, JIMMY

plea of guilty represented a choice freely made by the defendant among the legitimate alternatives (see *People v Hale*, 93 NY2d 454, 463; *People v Grant*, 61 AD3d 177, 182).

DILLON, J.P., FLORIO, CHAMBERS and MILLER, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court