

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

D34001
N/kmb

_____AD3d_____

Submitted - February 1, 2012

DANIEL D. ANGIOLILLO, J.P.
ANITA R. FLORIO
JOHN M. LEVENTHAL
PLUMMER E. LOTT, JJ.

2011-04190

DECISION & ORDER

The People, etc., respondent,
v Mathew Lessner, appellant.

(S.C.I. No. 25/11)

David Gandin, Walden, N.Y., for appellant.

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Joan H. McCarthy of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Dutchess County (Forman, J.), rendered April 19, 2011, convicting him of attempted burglary in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant contends that the County Court erred in imposing an amount of restitution without a hearing because there was insufficient evidence in the record to allow the County Court to determine the amount he should pay. However, since the defendant failed to request a restitution hearing or object to the amount of restitution he was required to pay, his present claim regarding the amount of restitution is unreserved for appellate review (*see People v Horne*, 97 NY2d 404, 414 n 3; *People v Francis*, 82 AD3d 1263; *People v Nelson*, 77 AD3d 973; *People v Rojas*, 74 AD3d 1369). In any event, there was sufficient evidence in the record to support the County Court's determination as to the amount of restitution (*see People v Kim*, 91 NY2d 407, 410-411; *People v Harris*, 72 AD3d 1110, 1112; *People v Lawson*, 65 AD3d 1380, 1381; *People v Charles*, 309 AD2d 873, 874).

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The defendant's remaining contention is unpreserved for appellate review.

ANGIOLILLO, J.P., FLORIO, LEVENTHAL and LOTT, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court