

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

D35085  
W/kmb

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

Submitted - May 2, 2012

REINALDO E. RIVERA, J.P.  
RANDALL T. ENG  
CHERYL E. CHAMBERS  
SANDRA L. SGROI  
ROBERT J. MILLER, JJ.

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2011-01603

DECISION & ORDER

The People, etc., respondent,  
v Richard D. Greene, appellant.

(Ind. No. 2400/10)

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Robert C. Mitchell, Riverhead, N.Y. (Alfred J. Cicale of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Thomas C. Costello of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Lozito, J.), rendered December 1, 2010, convicting him of burglary in the third degree (three counts), upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant contends that his application to withdraw his plea of guilty should have been granted because the County Court failed to fulfill its alleged promise to direct that any undischarged sentence run concurrently with the negotiated sentence imposed in this case, and that, as a result, his plea was not voluntarily, knowingly, and intelligently made. The defendant's contentions are without merit since he failed to establish that he was subject to a prior undischarged sentence of imprisonment which would run consecutively to the negotiated sentence imposed in this case (*see* Penal Law § 70.25[2-a]; *People v Newbould*, 83 AD3d 1570, 1571). In any event, the record reveals that the County Court fulfilled its sentencing promise.

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

ENTER:

  
Aprilanne Agostino  
Clerk of the Court

May 30, 2012

PEOPLE v GREENE, RICHARD D.